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Government of European cities

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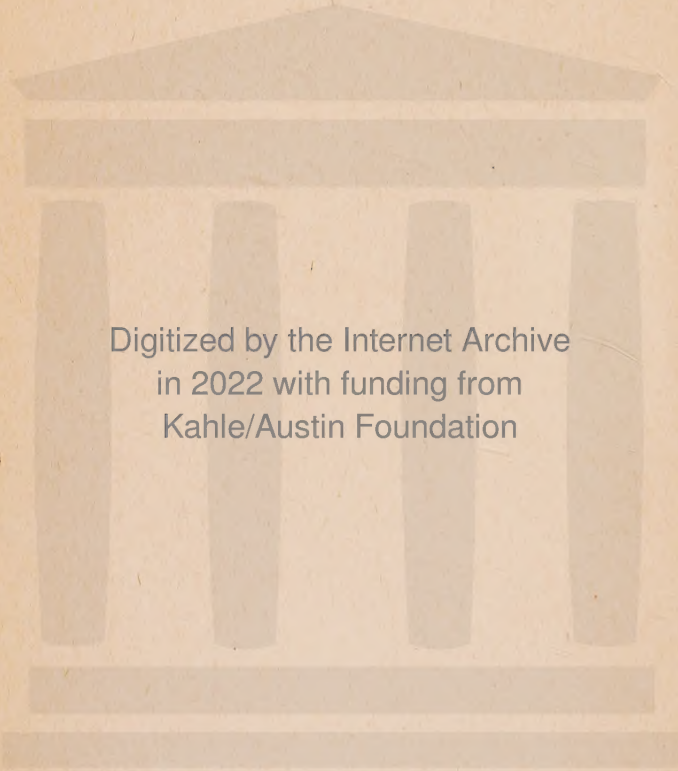
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**THE GOVERNMENT
OF EUROPEAN CITIES**

BY THE SAME AUTHOR

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TRATION (2 vols.)

A BIBLIOGRAPHY OF MUNICIPAL GOVERN-
MENT

THE GOVERNMENTS OF EUROPE

THE GOVERNMENT OF THE UNITED STATES

PERSONALITY IN POLITICS

THE GOVERNMENT OF EUROPEAN CITIES

BY

WILLIAM BENNETT MUNRO, PH.D., LL.B.

JONATHAN TRUMBULL PROFESSOR OF AMERICAN HISTORY
AND GOVERNMENT IN HARVARD UNIVERSITY

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To
W. S. M.
comrade of student days

“Local institutions train men not only to work for others but also to work effectively with others. They develop common sense, reasonableness, judgment, sociability.”

LORD BRYCE.

PREFACE

This volume was first published eighteen years ago. It has now been entirely rewritten, and so radically overhauled that little remains of the original book except the title-page.

Great changes have taken place both in the form and the spirit of European city government during the past two decades, more particularly since the close of the World War. It has been my endeavor to portray these changes and to point out their significance in the cities of Great Britain, France, Germany, and Italy. There are lessons which the American student of municipal government can learn (if he is so minded) from the experience of all these countries.

"In order to understand any political problem," Grover Cleveland once said, "I have got to know how it originated." He was right; for the nature of a problem is almost always related to the time and circumstances of its origin. The study of present-day political institutions, whether national or municipal, cannot safely be cut loose from history by anyone who desires more than a strictly superficial understanding of the subject. This is my justification for having incorporated in the book certain chapters dealing with the historical development of municipal institutions.

For help in the preparation of this revised edition I am greatly indebted to Professor John J. Clarke of the University of Liverpool, Professor Walter Norden and Dr. Albert Südekum of Berlin, Mr. Gino Bandini of Rome, and Professor Charles Fairman of Pomona College who gathered much material for me during a year spent by him in Paris. Mr. Joseph Wright, Superintendent of the Municipal Research Bureau at Harvard, has facilitated my work in numerous ways, and always with the utmost patience. To Mrs. H. L. Green of Pasadena, and to Miss Helen S. Eaton of New York City I am under obligation for much-valued assistance in preparing the book for publication.

W. B. M.

January 5, 1927.

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THE GOVERNMENT
OF EUROPEAN CITIES

THE GOVERNMENT OF EUROPEAN CITIES

CHAPTER I

BRITISH MUNICIPAL HISTORY

Among all European countries, England affords the most interesting field for the study of municipal government. Municipal institutions, which constitute the strength of free nations, have had a longer and more unbroken history there than anywhere else. By reason of this continuity the town archives of England contain thousands of well-preserved rolls and records, easily accessible and full of valuable material. They beckon the serious investigator and make his pathway smooth. England, moreover, is the classic land of local self-government, of municipal home rule and freedom from central control. She is also the mother of municipal democracy in the United States. Finally, England was the first country to succeed in reconciling a decentralized system of municipal government with order and efficiency in local administration. Not only was England the first to do this, but even today she remains the only European country that is able to do it successfully. The American student of comparative municipal institutions should begin with England, for there he will find a system of local government not widely different from his own. On the surface there may seem to be a great divergence between the municipal systems of the United Kingdom and the United States, but fundamentally they have much in common,—a common origin, a common aspiration, and a common emphasis upon the individual citizen as the chief end of government.

Importance
of England
in municipal
history.

English municipal history runs back to time immemorial. There were villages in England when the Romans invaded the

The beginnings of English municipal government:

1. The Roman towns.

country, a half century before the beginning of the Christian era, and during the next few centuries these places developed considerably under Roman protection. The southern and south-western portions of the island had at least a score of thriving urban centers with good roads connecting them, for the Romans were masters of the art of roadbuilding. Some of their roads are in use to this day. London became an important center of trade and industry during these early years, and a dozen other communities rose to prominence as seats of local government or as garrison towns. A survey which is supposed to have been made about A.D. 320 shows no fewer than fifty-six Roman towns in Britain, many of them existing at the present day. Among them are Bath, Chester, Canterbury, Exeter, Gloucester, Leicester, Lincoln, Salisbury, York, and Winchester. In no case have any written records concerning the daily life of these towns survived; but we know from archæological remains that some of them attained in Roman times a high standard of urban civilization.¹

But when the Romans evacuated the country in 410 A.D. these growing settlements fell a prey to banditry and invasion. Danish and Saxon conquerors swarmed over from beyond the North Sea, reduced London to a heap of ruins, and wiped most of the other places off the map. Some of them were so completely obliterated that antiquarians have never been able to determine their exact location. For nearly five hundred years English life was a welter of piracy, brigandage, and tribal feuds. The roads went into decay and all interurban trading came to an end. The Saxon invaders were accustomed to rural life and life in small villages. They gained their livelihood from hunting, fishing, and agriculture of a primitive type: they had no need for cities. In time, however, the land settled down to a stable basis and toward the end of the ninth century town life began to revive. Then, with the union of the country under the rulership of a strong Wessex king (Alfred the Great, 871-

Their decline after the evacuation.

¹ See J. S. Reid, *The Municipalities of the Roman Empire* (Cambridge, 1913); F. J. Haverfield, *The Romanization of Britain* (London, 1915); G. L. Gomme, *The Village Community, with Special Reference to the Origin and Form of its Survivals in Britain* (London, 1890); F. W. Maitland, "The Origin of the Boroughs" in the *English Historical Review*, vol. xi, pp. 13-19 (1896); and E. Conybeare, *Roman Britain* (London, 1903). Mention should also be made of T. F. Tout's *Mediæval Town Planning* (London, 1917).

901), the infant municipalities commenced once more to grow and flourish.

The towns of the Saxon era were known as burghs or boroughs. They were not large places, for the most part, yet more than mere villages, and usually surrounded by a wall or ditch. The people of the borough did not work within the walled area but had their farms outside. Their homes were merely huddled together for defence if raiders should come. The boroughs were often located on the site of an old Roman camp, or at the ford of a river, or at other spots dictated by convenience or strategy. Hence the origin of such names as Lancaster, Winchester, (*castra*, a camp), Oxford, Bradford, and Cambridge. Winchester was the seat of the Saxon royal court. York was a center of trade with northeastern Europe. In the tenth century a chronicler wrote that York was "filled with the wares of merchants who came from everywhere, especially from Jutland". Sandwich was the chief entrepôt of trade along the Channel shore. In the midlands also there were boroughs of considerable importance—including Derby, Leicester, Stamford, Nottingham, and Lincoln.

2. The
Saxon
burghs.

The population of the typical Saxon borough did not usually exceed a few hundred, and its local government was ostensibly conducted by a "moot" or town court. This body was presided over by a reeve, representing the king. It was part of the royal judicial and military organization, not a municipal government. In many cases, however, the borough went under the jurisdiction of a thane or nobleman, in which case the latter ruled the place through a bailiff or steward and did not give the people any opportunity to manage their local affairs. Historians have waged a merry warfare on the question whether the Saxon boroughs were originally free and became dominated by lords, or whether they were originally in bondage and became free; but the fact is that we know very little about English village government in Saxon times. The evidence is meager and vague. It may well be, indeed, that the amount of self-government differed somewhat from place to place, depending upon historical accident or local conditions, and that even in the same village there was more freedom at some times than at others.¹

Their
govern-
ment.

¹ A summary of the evidence is given in Henry Jones Ford's *Representative Government* (New York, 1924), pp. 30-87. See also F. W. Maitland,

3. The Norman boroughs.

With the coming of the Normans in 1066 the situation began to grow clearer. William the Conqueror caused a census to be taken, and from the results of this enumeration, as they are preserved in the Domesday Book, we know how many boroughs there were. Likewise we know the approximate population of each and something about their form of government.¹ William, as every student of English history is aware, signalized his victory over the English by dividing their lands among his own followers, thus creating large estates for his Norman barons and not omitting to retain vast tracts of territory for himself. Some of the boroughs thus went into the fiefs of the barons, others into the private domain of the king. That is to say, they became either manorial boroughs or royal boroughs. The people of the towns appear to have had some share in local government, but as a rule the feudal suzerain (baron or king as the case might be) kept his bailiff in the borough, and this bailiff was the real ruler of the town. He made the market regulations; he levied and collected the taxes or feudal dues; he held court in the lord's name. This baronial steward was in truth the city manager of mediæval days.

London.

London, however, was a place apart. Its size and importance secured for this city a degree of municipal independence which the other towns of Norman England did not enjoy. London had a charter of liberties before the Norman conquerors came, but what its provisions were we do not know. We know of its existence from a mention in the new charter which William gave to the burghers of London in 1066. "It is my desire that you be worthy of all the laws that you were worthy of in King Edward's day," he decreed, "and I will suffer no man to do you injury." Here was a grim warning to any avaricious baron who might think the metropolis a good field for pillage or extortion.

William's grandson, Henry I, gave the Londoners a much more elaborate charter containing various grants of privileges—the

Township and Borough (London, 1898) and Sidney and Beatrice Webb, *The Manor and the Borough* (2 vols.; London, 1908).

¹ On this matter see A. Ballard, *The Domesday Boroughs* (London, 1904); F. W. Maitland, *Domesday Book and Beyond* (Cambridge, England, 1897), especially pp. 172-219, and, for a brief, popular account, James Thompson's *Essay on English Municipal History* (London, 1867). Attention should also be called to C. Stephenson's article on "The Origin of English Towns" in the *American Historical Review*, xxxii, pp. 10-21 (October, 1926). It controverts some of the older ideas.

right to choose their own sheriff, to be free from the immediate jurisdiction of any tribunal not established by themselves, and to be exempt from various tolls.¹ Other English towns were by no means so fortunate. Very few of them obtained charters of any sort during the Norman period. "The privileges of the citizens of London", says Stubbs, "are not to be regarded as a fair specimen of the liberties of ordinary towns, but as a sort of type or standard of the amount of municipal independence and self-government at which the other towns of the country might be expected to aim".²

But most of the provincial towns kept pressing for privileges similar to those which London had obtained, and in time they were successful in securing some of them.³ With the steady growth of these towns the demand for charters became more insistent and after the middle of the twelfth century the majority of the boroughs obtained these grants of local freedom from the king. Richard I (1189-1199) granted many borough charters in return for sums of money which the townsmen contributed to help him go on his Crusade. Then, when he was taken prisoner and held for ransom, more charters were sold. The king's misfortune was a rare opportunity. The boroughs saw their chance and took it. Richard sold privileges to every class of his subjects, to all who had the price. His charters were roughly modelled on those granted by his predecessors but were more generous in their provisions. King John also was hard pressed for funds during his stormy reign (1199-1216) and the charter rolls of this era contain grants to boroughs in every stage of growth. A charter was merely a roll of parchment issued in the name of the king (usually by someone on his behalf) and bearing the great seal of the realm. It contained an enumeration of the privileges which the townsmen were to enjoy, and they guarded it with unrelenting vigilance. In general it was the policy of the Plantagenet kings to strengthen themselves with the towns

4. The winning of the borough charters.

¹ The *Carta Civibus Londoniarum* (1100). It may be found in William Stubbs, *Select Charters* (Oxford, 1895), pp. 108-109.

² William Stubbs, *Select Charters* (Oxford, 1895), p. 107.

³ Winchester, for example, appears to have obtained its first charter from Henry I, probably between 1155 and 1158. Then it obtained a confirmation and some additional privileges from Henry II. Numerous other charters were granted to Winchester by subsequent monarchs, the last being given by Queen Elizabeth in 1587. Under this charter the borough was governed until the passing of the Municipal Corporations Act in 1835.

by way of securing support against the barons, and as a result of this policy the country soon became well dotted with chartered boroughs.¹

Nature
of the
charters.

A study of ten charters given by John to the people of the various boroughs and cities will indicate that there was no approach to uniformity in the privileges which they obtained. The citizens of one community (London) obtained the right to elect their own mayor; those of another (Lincoln) were authorized to elect their own reeve; while the townsmen of the other eight places were granted neither of these concessions. Some of John's boroughs were given financial privileges, some obtained exemption from the jurisdiction of outside courts, some merely secured a confirmation of "their ancient liberties". They got whatever they could persuade or bribe the king to give. Every charter was a matter of barter and bargain. In France, as will be seen a little later, many of the communes won their charters by resort to arms, but the English boroughs were never able to pursue that course. It would have availed them nothing, for the royal power was too strong. So they begged and bought their charters, got what they could, and then began to maneuver for more.

What
rights the
charters
conveyed:

Little by little, as the time went on, the borough charters began to show some approach to uniformity in their provisions. There was no standard form of charter even in the thirteenth and fourteenth centuries; each borough continued to get something different from its neighbors; but in general the later documents assured the townsmen three or four important rights. First was the right to have the status of a corporation, to be a *communa* or independent municipality. London was the first city to obtain this status—in the reign of Richard I. Very few other places obtained it until a much later date. Just what advantage a borough derived from being "incorporated" is not precisely known, but there must have been advantages, otherwise the burghers would not have been so anxious to secure the new status. It should be explained, in passing, that the early bor-

1. A
special
status.

¹ Adolphus Ballard, in his *British Borough Charters, 1042-1216* (Cambridge, 1913), has collected about 330 charters and other documents relating to the boroughs of the British Isles prior to the reign of King John. He has analyzed them and rearranged them in the form of a code. This collection is the most valuable source for a study of English borough organization and privileges during the eleventh and twelfth centuries.

ough charters (those of the twelfth century, for example) were not charters of incorporation but merely grants of privileges. They gave certain rights and immunities to the inhabitants of the borough as individuals, not to the borough as a legal entity. It was not until after 1350 that charters of incorporation became common.

Second, the charters granted various financial concessions to the townsmen. Usually they provided that the sheriff should no longer come into the town and collect royal revenues from the inhabitants but that the king would accept an annual payment or *firma burgi* as a commutation of these dues from the borough as a whole. This lump sum the townsmen could raise in their own way and through their own officers. Along with this concession the charter also, in many instances, accorded various commercial privileges, together with exemptions from road tolls and market fees.

2. Financial immunities and commercial privileges.

Third, the later charters usually gave the burghers the right to elect some of their own local officers, including those who presided over the local courts. Every borough seems to have had a reeve, or a mayor, or a justiciar, a sheriff, or some other chief executive official. In the early stages of borough growth there appear to have been no municipal councils; but as the towns grew in population the inhabitants adopted the practice of turning over the actual administration to an elective committee of their own number; a common council, it was called. This change paved the way for an ultimate sacrifice of local democracy, because it became customary to re-elect the same councillors year after year and in time the election became a mere formality. The mediæval Englishman did not have his franchise taken away from him; in many cases he merely lost it through disuse.

3. The right to choose local officers.

The practice of uninterrupted re-election gave the councillors a notion that they had a sort of vested right in the offices which they held and this notion slowly percolated through the entire community. Legally, the borough electorate continued to include all the "freemen of the town"; but, with the growing importance of the guilds in local administration and the steadily developing exclusiveness of these organizations, the list of freemen gradually narrowed until by the close of the fifteenth century the voters of the borough often formed but a very small

The growth of oligarchy in the towns.

proportion of its population.¹ With this growth of oligarchy the borough council, in many cases, became virtually self-perpetuating and the borough was transformed from a free community into a close corporation.²

But some
of them
remained
demo-
cratic.

But this was by no means true of all the boroughs. Many of them remained little democracies in fact as well as in form. They elected their local officials by common voice of the entire citizenship. The inhabitants defended their own territory, built walls and towers, and maintained what was in effect a small republic. No outside official of any kind, save only the circuit judges of the king's high court, could come into the borough and exercise jurisdiction. Sheriffs and bailiffs might roam the counties, but their authority ceased at the boundaries of the town. The burghers assessed their own taxes, collected them in their own way, and spent the proceeds as they chose. Sometimes the boroughs made treaties with one another, granting reciprocal freedom of trade or establishing uniform rules for the government of their markets. Occasionally the authority of the borough, in the matter of regulating trade, extended beyond its own boundaries and included the little parishes outside. Market courts were established for the enforcement of these rules, notably the Courts of Pie-Powder, as they were called.³

A typical
town at
the close
of the
Middle
Ages.

The typical English borough, at the end of the fifteenth century, on the eve of the discovery of America, was a place of perhaps a thousand inhabitants or less. London at this time had a population of about 40,000; Bristol about 20,000; and York less than 15,000; but these were the great towns of England, far outranking the general run of boroughs. Imagine, then, an unplanned settlement, surrounded in whole or in part by an irregu-

¹ C. W. Colby, "The Growth of Oligarchy in English Towns" in the *English Historical Review*, vol. v., pp. 633-653 (1890).

² On English borough organization and life during the later Middle Ages see A. Ballard and James Tait, *British Borough Charters* (London, 1923); Thomas Madox, *Firma Burgi, or an Historical Essay concerning the Cities, Towns, and Boroughs of England* (London, 1726); H. A. Merewether and A. J. Stephen's *History of the Boroughs and Municipal Corporations of the United Kingdom* (3 vols., London, 1835); Mrs. J. R. Green, *Town Life in the Fifteenth Century* (2 vols., London, 1895); Edwin Benson, *Life in a Mediæval City* (London, 1920); and the various books listed in the *Bibliography of British Municipal History* by Charles Gross (New York, 1897), pp. 29-31.

³ The name is a corruption of the Norman-French *piéd-poudre*, i.e., dusty-foot, and is believed to have had its origin in the fact that these courts dealt chiefly with pedlars who tramped from mart to mart through the dust or mud with packs of merchandise on their backs.

lar ditch or wall, with houses huddled together on narrow, crooked, unpaved streets through which both man and beast tramped knee-deep in the mire. At intervals these sunless alleys were intersected by fetid rivulets through which the slops and sewage of the borough made its way to the nearest stream. Somewhere toward the center of the town was an open space or square, and fronting on this square stood the guildhall or town house. Here were the headquarters of the mayor, an official chosen every year by the aldermen. The aldermen, perhaps a dozen in number, were virtually self-elected. When a vacancy occurred among them, the remaining aldermen filled the gap from among the common councillors who, in turn, were assumed to be chosen by all the freemen of the borough but were in fact elected by a small fraction of them.

There was a good deal of sham about the municipal democracy of these days. When an election was to be held, the town sergeant went through the borough ringing a bell or blowing a horn. "Make haste! Make haste!" he cried; "every man assemble in the town square for the commonalty hath need!" Those who were so minded left their looms or their work-benches and betook themselves to the guildhall where they merely acclaimed the councillors who had been put in nomination for them. Rarely was there any contest. Once in a while, however, the burghers got out of hand and "bolted the ticket", as we would say nowadays; but as a rule very few responded to the sergeant's call, and those who came did nothing but applaud what was laid before them. The mayor was titular head of the borough, but had no independent executive powers. The aldermen were the real rulers of the town. They appointed the constables, made the bylaws, fixed the scale of market tolls, and sat as magistrates to punish offenders. Here were borough governments, in a word, with the externals of democracy (for every freeman had a vote), but with the substance of power vested in a close corporation.

Side by side with this oligarchic arrangement there developed a system of central control over the local administrative service through officials known as justices of the peace.¹ Despite their appellation, these justices were administrative officers in the main, and had very little judicial work to do. The office orig-

The hol-
lowness
of the
municipal
democracy.

The begin-
nings of
central
control.

¹ Charles A. Beard, *The Office of Justice of the Peace in England* (New York, 1904).

inated in Plantagenet times and its development was probably due to the fact that the sheriffs (of whom there was only one for each county) proved unable to handle all the work that was imposed upon them. The justices were appointed by the crown and their chief work was performed in the counties, where they were the ever-available bearers of new governmental duties; but they also functioned in the boroughs. In a sense they were sometimes the chief figures in borough administration and did more for the people than was done by the regular municipal authorities. The national government, as has been said, appointed these justices and occasionally exercised some control over them, but in general they were free from any outside jurisdiction. Although they received no remuneration the justices were competent, on the whole, and did their work pretty well.

The boroughs during the Tudor and Stuart periods.

This framework of borough organization remained for a long time unchanged. The justices provided roads and bridges, preserved public order, and cared for the poor. The mayor, aldermen, and councillors made up the corporation of the borough and exercised certain powers of the municipality, including the management of its property and the right to elect representatives to the House of Commons. This last-named privilege is of high significance, for it is not improbable that the oligarchic organization would have broken down during the seventeenth and eighteenth centuries if the crown had not been so desirous of maintaining it as a means of securing supporters in Parliament. In so far as the list of freemen could be kept within narrow limits the crown had a better opportunity to control the election of borough representatives in the House of Commons; for it was obviously easier to control a small self-perpetuating clique than to dominate the whole body of inhabitants. No wonder, therefore, that whenever the crown amended borough charters or gave new ones, it stood ready to assist the drift to municipal oligarchy. Indeed, when some of the larger boroughs showed a disposition to oppose the royal policy, it was the practice of the Stuart kings to secure, by *quo warranto* proceedings, an annulment of their charters. Then the king granted new charters which were designed not to improve the efficiency of borough government but to afford means whereby the selection of borough representatives might be more effectively controlled. Charles II, for ex-

ample, secured the forfeiture of many borough charters—even London had its character temporarily taken away.

The revolution of 1688 did not bring about any marked change in the structure of English town government. The close corporations remained in power. Royal interference with the charters ceased for the most part, it is true, but the new charters given by the Hanoverian sovereigns differed little from those granted by the Stuarts.¹ Despite the sweeping changes made in the local government systems of France and other continental countries during this period, the old municipal régime in England remained as firmly intrenched as ever. Perhaps it would have remained so indefinitely had it not been for the shock of the industrial revolution. It was the application of steam power to industry that gave birth to the factory system in the closing decades of the eighteenth century. It was the factory system that drew the agricultural population of England into the towns—drew people by the tens of thousands to places where the housing facilities were inadequate, where there was no sanitation, no water supply, no police, no fire protection. Rural boroughs with three or four thousand inhabitants were quickly transformed by this influence into factory towns of thirty or forty thousand people.²

The boroughs under the Hanoverians.

The Industrial Revolution.

In this great emergency the old municipal organizations were helpless. The close corporations proved wholly unable to cope with the new problems of housing, street-making, sanitation, water supply, and lighting. Nor could the justices of the peace do it, for they did not have a sufficient range of taxing power. But something had to be done, and the larger boroughs sought relief by applying directly to Parliament for special legislation, as a result of which many of them obtained the appointment of "improvement commissions." These bodies were empowered to provide the more important public services and to defray the cost of levying local taxes. They were also given power to borrow money. The improvement commissions were separate from the municipal corporation, but they often included within their membership the mayor, the recorder, the justices, and sometimes

Its effects on town life.

¹ F. W. Maitland, *Township and Borough* (London, 1898), 95.

² For a vivid description of the changes which the Industrial Revolution wrought in English town life, see Arnold Toynbee, *The Industrial Revolution* (London, 1896); F. J. Foakes-Jackson, *Social Life in England, 1750-1850* (London, 1917); J. L. and Barbara Hammond, *The Town Laborer* (1920); P. Mantoux, *La révolution industrielle au xviii^e siècle* (Paris, 1906), and Elie Halévy, *A History of the English People in 1815* (New York, 1924).

the aldermen. At the outset the commissioners were usually appointed for life, and vacancies were filled by action of the remaining members; but sometimes it was provided that certain commissioners should be elected annually by the taxpayers of the borough.¹

Work of
the local
improve-
ment
commis-
sions.

It was by means of these local improvement commissions that most of the larger towns were able to make a real beginning in the matter of public services for the convenience of their inhabitants. At the outset the authority of the commissioners extended to four of these services only—street paving, lighting, scavenging, and policing (i.e., supervision of the constables and watchmen). But as the towns grew larger, more powers were given to the improvement commissions. They were authorized to widen streets, to build sewers, to provide public water supplies, to abate nuisances (including the pollution of streams), to prescribe building lines abutting on public thoroughfares, to establish markets, build abattoirs, and, finally, to maintain a system of fire protection. The commissioners were not subject to control by any central authorities, although in certain cases an appeal might be taken from their actions and orders to the court of Quarter Sessions.² Hence they became very active factors in local administration and as their functions expanded there was less and less for the corporate officers of the borough to do.³ In time, therefore, the municipal corporation did little more than manage (or mismanage) the borough property and elect the borough representatives in the House of Commons.

History repeats itself in curious ways. It should be easy for

¹ In the *Minutes of Evidence Taken Before the Royal Commission on Local Government* (London, 1923), may be found some examples of these local improvement acts. (Appendix xxviii.) The borough and parish of Liverpool, for instance, was given an improvement commission in 1744. The commission included the mayor, recorder, justices, and eighteen "principal inhabitants" elected annually by the ratepayers. It had authority to provide for street lighting, street cleaning, scavenging, and policing. It could levy taxes and borrow money to pay for these services. In Southampton, the improvement commission which was established in 1768 contained the mayor, aldermen, common councillors, and twenty-five persons named in the act. It had authority to provide street lighting, paving, sewers and drains; likewise to supervise "the naming of streets and the numbering of houses".

² This court was made up of all the justices of the peace for the county, sitting together.

³ In 1833 it was found that no fewer than 708 local acts establishing improvement commissions, or affecting the powers of such commissions, had been passed during the preceding hundred years.

an American student of local government to understand this development in eighteenth-century England, for the reason that almost exactly the same process is now going on in his own country. In various parts of the United States it is the practice to establish improvement-districts wherever some portion of a county becomes thickly settled and hence requires certain services which are not needed by the rest. Such areas become incorporated as sanitary districts, fire districts, water districts, flood-control districts, or what not. In each case the district has a controlling body made up of commissioners or trustees, usually elected by the voters, and these commissioners have power to tax and to borrow. The districts exist for specific improvement purposes and have no relation to other governmental activities (e.g. poor relief) which continue to be carried on by the regular county or municipal authorities. Thus a citizen of Illinois or of California may live in a county, a city, a sanitary district, and a school district—each of which has its own governing body and each of which may have different boundaries. This superimposition of local authorities is leading the American system of local government into extreme confusion, exactly as it operated in England more than a century ago.

A modern American analogy.

It may seem strange that England, a country which was in the earlier part of the nineteenth century serving as a model of successful representative government to the nations of the continent, should have continued to maintain in full force a system of local administration that was even less representative than those of France and Prussia. Appointive justices, ex-officio improvement commissions, and members of a close corporation divided all the authority among themselves. This perpetuation of oligarchy by English borough government may be partly explained by the inherent conservatism of Englishmen in regard to their political institutions, partly by the spirit of political optimism which pervaded the land in the years following the victory at Waterloo, partly by the overpowering parliamentary strength of vested interests, and partly, no doubt, by the popular ignorance as to the exact condition of affairs.¹ The movement

Borough government in the first three decades of the nineteenth century.

¹ The best sources for the study of conditions in the English boroughs prior to the era of reform are H. A. Merewether and A. J. Stephens, *History of the Boroughs and Municipal Corporations of the United Kingdom, etc.* (3 vols., London, 1835); Sidney and Beatrice Webb's *English Local Government from the Revolution to the Municipal Corporations Act* (6 vols.,

for reform in local government, though it gained some headway during the first quarter of the nineteenth century, was compelled to await the culmination of the more important and more aggressive agitation for the reform of Parliament itself.

Why reform was delayed.

The movement for a reform in the government of English cities was also retarded by the fact that most of the townsmen took no interest in borough affairs. They saw nothing anomalous in a system of government by justices of the peace and close corporations. It had been thus, they said, from a time beyond the memory of man. And so long as the boroughs remained small this form of government seemed to function as well as any other; it was only when they grew large and congested that the improvement commissions were called into the breach. Private enterprise, also, in some instances, atoned for the laxity of the public authorities. Many of the interurban highways, for example, were built by "turnpike trusts" which compensated themselves by erecting toll-gates on their roads and collecting a small toll from every vehicle that passed.

As for the national government, it did nothing for the boroughs during this pre-reform era. It built no roads, provided no schools, maintained no police, and gave no alms to the poor. With the exception of the postal service it performed no function that brought it directly into contact with the citizen. Grants-in-aid, devolution, and central supervision of local administration were all of them virtually unknown. But reform was in the atmosphere during the first three decades of the nineteenth century and once the House of Commons became democratized, a reconstruction in local government was bound to follow.¹

The era of reform.

The great Reform Act of 1832 brought the question of municipal reorganization within the orbit of practical politics, and the reformed House of Commons lost little time in setting out to deal with the matter. By an act passed in 1833 the cities of Scotland were first attended to, and later in the same year a royal commission was appointed to investigate the boroughs of England

London, 1906-1922), especially the two volumes entitled *The Manor and the Borough*; and the *First Report of the Municipal Corporations Commission* (see *below*, p. 15, footnote 2).

¹There are chapters on the coming of municipal reform in all the political histories of the period, for example, in Erskine May's *Constitutional History* (chap. xv); in Molesworth's *History* (chap. vi); in Spencer Walpole's *History* (chaps. xiv-xv), and discussions may also be found in the more recent works by Marriott and by Slater.

and Wales. This commission was instructed to collect information in regard to the existing defects of the municipal system, to inquire into the methods of selecting borough officers, and in general to look into the administrative conditions of all the chartered municipalities. Such a study was an essential prelude to any comprehensive plan of reform, for nobody knew just what powers the various municipal officers possessed, whence these powers were derived, what they were doing, and what they were leaving undone. Borough government, throughout England, was enmeshed in a hopeless tangle of charters, confirmations, general laws, special statutes, amendments to laws, and amendments to amendments.¹

The royal commission of 1833.

The royal commissioners performed their work promptly and thoroughly. They visited many of the boroughs, examined the accounts and the records, and took a large amount of oral testimony. In the course of eighteen months they went through the affairs of nearly three hundred boroughs, big and little. With this body of facts as a basis, they presently laid before Parliament their famous report, a state paper which is distinguished among documents of its kind for its comprehensiveness, clearness, and vigor of statement.²

Its investigation of borough affairs.

After touching briefly upon the manner in which the municipal corporations had come into existence and upon the general nature of their charters, the report proceeded to lay bare the more important anomalies and abuses which had been disclosed by an examination of affairs in two hundred and eighty-five boroughs. It laid emphasis upon the unrepresentative character of the borough authorities and upon the fact that these authorities had

The commission's report.

¹ Much interesting data relating to the appointment of the commission, its composition, its methods of investigation, and the obstacles which it had to surmount, may be found in Sidney and Beatrice Webb's *Manor and Borough* (2 vols., London, 1908), ch. xi.

² This main report, entitled *First Report of the Municipal Corporations Commission*, was published in April, 1835, in five volumes, the first of which contains the report itself and the other four the evidence gathered by the commissioners. Four years later the whole was indexed in the *Analytical Index to the First Report of the Municipal Corporations Commission* (London, 1839.) The *Second Report of the Municipal Corporations Commission* (London, 1837) deals with the city of London only. An unofficial summary of the evidence may be found in A. J. E. Cockburn, *The Corporations of England and Wales* (London, 1825). For the benefit of those American students who do not have access to the foregoing reports it may be mentioned that a portion of the *First Report*, including the more significant sections of it, is reprinted in Thomas H. Reed and Paul Webbink, *Documents Illustrative of American Municipal Government* (New York, 1926), pp. 3-29.

long since lost the confidence of the inhabitants, as was indicated by the strong popular conviction that neither the justices nor the corporations could be relied upon to care for the steadily growing work of the boroughs, and that the system would have completely broken down in the larger towns under the strain of the industrial revolution had it not been for the machinery created by the special acts of Parliament. In nearly all the boroughs, it was shown, the voters comprised a very small percentage of the people and admission to a place on the voting register was not regulated by any reasonable rules.¹

Conditions
disclosed
by the
investiga-
tions.

In most of the boroughs, as the commission discovered, the governing authorities consisted of a mayor and a council, the latter usually made up of both aldermen and councillors. These aldermen and common councillors ordinarily met together, but in a few instances the aldermen were accustomed to meet separately for the consideration of special matters. The council meetings were almost invariably secret, and as a rule no report of the proceedings was ever given to the public—a practice to which the commissioners attributed many of the existing evils. They found, for instance, that local offices were sometimes distributed by the councillors among their relatives and friends with little or no regard to the qualifications which the appointees possessed or to the work that they had to do. In Coventry, for example, two members of the municipal corporation served as masters of the borough school. They divided £700 per annum among them—but the school had only one pupil! The commissioners also found that in some cases non-resident municipal officers drew salaries from the municipal treasuries but gave no services in return; that sinecure posts existed in some of the boroughs; that a single individual sometimes held several offices, drawing the full salary attached to each of them, but being entirely unable to perform the duties attaching to more than one; and that some of the paid officials were absentees. In Lancaster, for example, it was found that the recorder had not attended his office for twenty-two years—but he had never missed a pay-day. In

¹ In the 212 boroughs from which definite figures could be obtained, the total population was 1,800,000. Of this number somewhat more than 88,000, or less than five per cent, were "freemen". Liverpool, with a population of 165,000, had about 5,000 voters; Portsmouth, with 46,000 inhabitants, had only 102; Plymouth, with 75,000, had only 437 freemen, of whom 145 were non-residents. This condition of affairs was more or less characteristic of all the other boroughs. See the *First Report*, I, 32-33.

another borough the mayor was serving as magistrate, coroner, clerk of the market, and keeper of the jail—a *Græculus escuriens* in his varied activities, with a tidy stipend attached to each of them. Petty graft in its varied forms was encountered here and there—aldermen providing junkets and banquets for themselves at the public expense, using public property without paying for it, and pocketing odd shillings which did not belong to them. To the American student of municipal affairs a perusal of this evidence may be strongly commended as a prophylaxis against undue discouragement over conditions in the cities of his own country.

The report further drew attention to the loose and irregular manner in which the accounts of the boroughs were kept and to the occasional misapplication of public funds which the system of accounting not only permitted but encouraged. The property of the borough was often regarded by the members of the town council, not as a trust held by them for the inhabitants as a whole, but as their own private patrimony. Hence they sometimes leased it to themselves, or to their immediate relatives, at a nominal rental or no rental at all. At Berwick-on-Tweed the lands belonging to the borough, valued at about £24,000, were used by the freemen in this way, without payment of a single penny into the borough treasury. Another occasional method of enriching the members of the municipal corporation was by selling the seat or seats in parliament to which even the smallest boroughs were entitled. These seats were not sold *sub rosa*, but by what were virtually public auctions. Sometimes a well-to-do candidate for a place in Parliament would agree to defray all the expenses of the borough government during his term. What the members of the corporation obtained, in this way and in others, the inhabitants of the borough never knew, for there was no public accounting of the borough income or expenditure.

The reader who goes through the four volumes of evidence gathered by the royal commission of 1833 will get the impression that no new forms of municipal crookedness have been invented during the past hundred years. Every device that the American ward boss utilizes to feather his own nest had its counterpart in the unreformed English borough. There were a hundred forms of "perfectly honest graft", as Plunkitt of Tammany Hall would have termed it—mostly of the picayune variety. On the other

Misman-
agement
and cor-
ruption.

hand, the commission found very little evidence of peculation and wastefulness on a large scale. The evils were for the most part intermittent and widely scattered. The specific examples of malfeasance and dishonesty which the commission found in one borough did not usually appear in many of the others. Each had its own specialty, adapted to local conditions and to the varying idiosyncrasies of its principal officers. Carelessness and a lack of the fiduciary sense were more in evidence than downright dishonesty. Mayors and aldermen saw no reason why they should not lease public property to themselves, or make contracts with themselves, even though such transactions inured to their own personal benefit. It was an age in which public officials seem to have had a misty sense of moral obligation.

The commission's summary.

The commission found much to criticise, but in summing up the evidence and in drawing conclusions therefrom, it went too far. It implied that conditions were worse than the facts showed them to be. The commissioners listed the various instances of mismanagement, inefficiency, and crookedness in great detail and presented them to Parliament with the implication that these lapses from integrity were characteristic of English borough government in general. The evidence, as it stands in printed form, does not warrant that generalization. Compared with the disclosures made by the Lexow Commission in New York, for example, the evidence gathered by the English commissioners is altogether unsensational. It makes dry reading and on the whole leaves the impression that the government of the English boroughs, prior to 1835, was by no means so bad as might have been expected under an autocratic administration with no publicity attending its operations.

Serious defects of the old system.

Nevertheless it is beyond dispute that there were two serious defects in the system—its unrepresentative character and its lack of provision for any central control over local government. The justices of the peace were not elective. The mayor, aldermen and councillors did not represent the people of the city but only a small fraction of them. The improvement commissioners were often self-perpetuating. It was not enough that these officials in some cases did their work well and honestly; for no matter how efficient or how honest a government may be, it is hard to defend, in modern times, unless it is responsive to the people whose money it spends. The old English borough also

suffered from too much home rule—paradoxical though this assertion may sound. It was neither aided, guided, nor supervised by the central government. Its officials did things in their own way, which often turned out to be the wrong way. They did not coöperate with the officials of neighboring boroughs. They put local advantages ahead of the general welfare. More democracy and less home rule was what they needed,—and in a general way that was what the commissioners recommended.

In due time the report on municipal corporations was laid before Parliament, and presently Lord John Russell came forward with a measure, commonly called the Whig Bill, designed to effect a general reform of the abuses which the commissioners had brought to light.¹ By the terms of this bill all provisions in borough charters inconsistent with the new arrangements were to be annulled in order that all the old municipal charters, though nominally remaining in force, might be brought into uniformity. The idea of a municipal corporation was to be restored to its original place as “the legal personification of the local community, elected by, acting for, and responsible to the inhabitants”. It was further provided that the governing organ of the corporation should consist of a body of councillors elected for a three-year term by the equal and direct votes of all the local taxpayers, and that any inhabitant of the borough who had paid municipal taxes for three consecutive years should be entitled to vote at local elections.

A distinguishing feature of the bill was the innovation which it proposed in the direction of strengthening the control and supervision of the central over the municipal authorities,—a power which had been almost entirely lacking. It also provided that certain borough magistrates, hitherto appointed by the municipal corporation, should be named by the crown. The bill further sought to define more precisely the respective legal powers of the various local officers and, more particularly, to divorce judicial from administrative functions. For the first time, in the field of local government, the attempt was made to draw a clear line between these two branches of public duty, but the cleavage was not yet made complete inasmuch as the justices were

Results of
the inves-
tigations.

The Whig
Bill of
1835.

Its chief
provi-
sions:

(a) cen-
tral con-
trol.

¹ Hansard's *Parliamentary Debates*, 3d series, XXVIII, 541-558 (June 5, 1835). On Russell's share in drafting and promoting the measure, see Sir Spencer Walpole's *Life of Lord John Russell* (2d ed., 2 vols., London, 1889), vol. i, pp. 243 ff.

allowed to retain a few administrative functions, notably the granting of liquor licenses.

(b) The
elective
town
council.

In general the idea embodied in the Whig Bill was to set up, in each borough, a truly representative body which should at once take over a considerable range of authority and to which further powers might be given as occasion arose. Hence the borough council was to make the by-laws, appoint all administrative officers, control the various public services, levy taxes, vote appropriations, and borrow money on the borough's credit. It was to be the dominant organ of borough government. In certain matters, however, there was to be an appeal to the justices in Quarter Sessions if the rights of the citizen appeared to have been infringed.

Scope of
the
measure.

The bill proposed that its provisions should be applied to the one hundred and seventy-eight boroughs and cities¹ named in an attached schedule. This number did not, however, include all the municipal boroughs of England and Wales, for many of the small municipalities were not deemed of sufficient importance to warrant their insertion in the list. London was likewise excluded from the scope of the bill; for it was thought that the metropolis, on account of its great size and special problems, ought to be dealt with in a separate measure. As it turned out, the problem of reorganizing the government of London was put off by one ministry after another until more than half a century had passed. Not until 1888 was London's government reformed, and even then the reform went only part way. Apart from London, however, the governments of virtually all the English boroughs were placed on a uniform basis by this measure, and it was stipulated that no new charter should henceforth be issued save in conformity with the same arrangement.²

The oppo-
sition to it.

The Whig Bill met with some opposition from the Tories in the House of Commons, but its general principles were acceptable to men of moderate views like Sir Robert Peel, and in the end it went through the House without any important changes. In the House of Lords, however, the opposition was more formidable and uncompromising.³ The Lords were afraid to reject the bill

¹ For the distinction between a borough and a city see *below*, p. 25.

² See *below*, pp. 26-30.

³ On the attitude of the various parliamentary leaders toward the bill see, in addition to Spencer Walpole's *Life of Lord John Russell* (2 vols., London, 1898), Graham Wallas's *Life of Francis Place* (London, 1898), C. S.

as a whole, but they made a determined effort to emasculate the measure by proposing amendments to it. They proposed, for example, that one fourth of the councillors should be elected for life terms. The House of Commons would not accept the more drastic of these amendments, but on some features of the bill it became necessary to compromise. Instead of a town council made up entirely of members elected by the people, for example, the Commons had to agree that the borough councillors, themselves elected for three years, should choose one third of their own number as aldermen for six-year terms. This arrangement, the Tories hoped, would "stabilize" the council. The Whig Bill, again, proposed that the borough magistrates should be directly elected by the people. The Lords would not listen to this and in the end it was agreed that the magistrates should be named by the crown. With these and other changes the bill was finally passed in September, 1835, and went on the statute books as the Municipal Corporations Act.¹

Passage
of the Act.

In general the changes effected by the Act of 1835 were as follows: the borough councillors were made elective, whereas most of them had previously been appointive. Meetings of the council were required to be open, not secret. The council was given definite taxing power. Its accounts were henceforth to be audited annually. Its power to borrow or to sell borough property was made subject to central supervision. Its sphere of jurisdiction was somewhat enlarged, notably by giving it authority over borough policing. The various improvement commissions which had been established by special statutes were not touched, but it was provided that these commissions might transfer their powers to the reconstructed town councils, and many of them did so. The great significance of the Act did not lie in powers newly granted. It lay in the fact that the measure created a truly representative organ to which powers could subsequently be given.²

The im-
portant
changes
which it
made.

The Act of 1835, important though it was, did not make any break in the continuity of English municipal development. It

Parker's *Life of Sir Robert Peel* (3 vols., London, 1891-1899), G. M. Trevelyan's *Lord Grey of the Reform Bill* (London, 1920), and Stuart J. Reid's *Life and Letters of the First Lord Durham* (2 vols., London, 1906).

¹ 5-6 William IV, c. 76.

² This summary is adapted from the excellent statement by Mr. I. G. Gibbon, contained in the *Minutes of Evidence Taken before the Royal Commission on Local Government* (London, 1923), Part I, Appendix xxx.

The Municipal Corporations Act of 1835 did not inaugurate any new theory of local government.

The recodification of 1882.

Other codes of local government affecting parishes and urban districts.

changed the basis of borough government from usage to statute, from a mass of customs to a code. But it did not, like the French municipal decrees of 1789 and 1800, or like the Prussian codes of 1806-1808, wipe the slate clean and begin anew. It merely endeavored to transform into reality what had been the theory of English borough government for many centuries. It effected a change in the spirit rather than in the forms. Even its most ardent supporters did not regard the act as providing a solution of all the problems with which it undertook to deal. For the measure did not give the town councils anything like the wide range of power that they now possess. It merely made a good start. Then, as the councils demonstrated their capacity, Parliament gradually added to their range of authority—for example, by the Public Health Acts of 1848, 1854, and 1875; the Police Acts of 1847 and 1856; the Local Government Act of 1858, the Tramways Act of 1870, and so on. So many of these statutes were passed during the half century following 1835 that much confusion in borough powers was again arising. In 1882, therefore, it was arranged that the whole mass of legislation affecting the government of boroughs should be consolidated into one comprehensive statute known as the Municipal Corporations (Consolidation) Act.¹ This code still forms the legal basis of English municipal government, although numerous amendments have been added during the intervening half century. Today there is need for another recodification.

But the Municipal Corporations (Consolidation) Act of 1882 is not the only code which applies to the urban communities of England and Wales. During the latter half of the nineteenth century many of the old rural parishes became industrialized and greatly increased their populations. These places might have been chartered as boroughs but there were various obstacles, sentimental and otherwise, in the way.² So they continued to be governed as parishes until Parliament, in 1894, passed an

¹ 45-46 Victoria, c. 50. The best commentary on this Act is T. J. Arnold's *Law Relating to Municipal Corporations in England and Wales* (5th edition, London, 1910). References to statutes passed since this date may be conveniently found in J. J. Clarke's *Local Government of the United Kingdom* (London, 1925) and in the continuation volumes of the *Encyclopedia of Local Government Law*.

² The total number of boroughs brought under the Act of 1835 was 178; by 1871 the number had increased to 224. But by the latter date there were more than 700 places in England and Wales which could probably be called urban areas.

act which provided for the creation of urban and rural districts. Many of the urban districts now have large populations; they are cities in the American sense of the term, but they are not governed like chartered boroughs, nor have their councils the same powers as a borough council.

England is a land of big and little towns. At the present time three fourths of the whole population is massed into boroughs and urban districts. The rural districts cover about ninety per cent of the country's area, but they contain only twenty-four per cent of the population. The concentration of the people is further shown by the fact that although the county boroughs (i.e. larger cities) occupy only two per cent of the area, they contain almost forty per cent of the population. If we add the administrative county of London, they contain more than fifty per cent. Half the people of England live on two per cent of the soil! Verily, a classic land of urban concentration.

Urban
England
today.

The population of England and Wales is now about forty millions. Apart from London there are only four cities of over half a million—Birmingham, Liverpool, Manchester and Sheffield. Seven other communities have populations of about a quarter of a million—Bradford, Bristol, Leeds, Newcastle, Nottingham, Portsmouth, and West Ham. Of places having 100,000 or more (but less than 250,000) there are about thirty in all. Some of these are county boroughs, some are merely boroughs, and some are urban districts. But the backbone of the urban population is to be found in the vast array of smaller communities,—those having from 10,000 to 100,000 inhabitants. There are several hundred of them scattered from Land's End to the Scottish border.

CHAPTER II

THE LEGAL STATUS AND POWERS OF THE ENGLISH BOROUGH

The confusing -
nomenclature of
British municipal
government.

The nomenclature of municipal government in Great Britain is very confusing to an outsider. In books on local administration he will read of municipal boroughs, county boroughs, parliamentary boroughs, metropolitan boroughs, Irish boroughs, Scottish burghs, cities, and urban districts,—not to speak of administrative counties, rural districts, poor-law unions, and parishes. It seems desirable, therefore, that this terminology be explained before any attempt is made to discuss the legal phases of the subject.

Definitions of :

1. A municipal
borough.

A municipal borough is a place that has been chartered as such and has not been elevated to the rank of a county borough.¹ That is not a very enlightening definition, but it is the best that can be framed. There is no minimum of population for a borough, and some of the older municipal boroughs have fewer than a thousand inhabitants, but it is not now customary to give a borough charter to any place with a population below fifty thousand. The essence of a municipal borough is incorporation as such,—not size or importance. There are about 250 municipal boroughs in England and Wales.²

2. A county
borough.

A county borough, on the other hand, is one that has been taken out of the county for most governmental purposes and virtually made an administrative county by itself. It does not have representation in the county council.³ There are about eighty-five county boroughs in England and Wales. Any municipal borough with a population of 50,000 or more may be made a county borough, after enquiry, by order of the Ministry of Health, which

¹ "Borough means, unless a contrary intention appears, a city or town to which this Act applies". *Municipal Corporations (Consolidation) Act*, 1882, Section 7.

² For a survey of government in the Scottish burghs and the Irish boroughs, see *below*, ch. x.

³ Certain services of mutual interest, however, are administered by standing committees of the borough and county councils.

has inherited the powers of the old Local Government Board.¹ In each county borough the town council functions to all intents as a county council. In organization, therefore, municipal and county boroughs are alike; the only difference is in the scope of their powers.

A parliamentary borough is merely an electoral division for the election of one or more members to the House of Commons. Its boundaries are roughly coterminous with those of a municipal or county borough, but they are not always exactly identical. Parliamentary boroughs need not concern the student of municipal affairs, for they are not incorporated areas of local government. The analogous American term for an English parliamentary borough would be "an urban congressional district".

3. A parliamentary borough.

Finally, a metropolitan borough is one of the twenty-eight boroughs located within the administrative county of London. These metropolitan boroughs do not come under the provisions of the Municipal Corporations Act but are organized under the London Government Act of 1899. Their powers cover a much narrower range than do those of the municipal or county boroughs.

4. A metropolitan borough.

In England the term city (save in the case of the City of London) does not connote a special type of municipality. A city is merely a municipal or county borough which has obtained the right to be officially known as a city. Here, again, it is not a question of size, or population, or importance. Some small boroughs are officially designated as cities; some large ones are not. Wakefield, with about fifty thousand inhabitants, is a "city", while Southampton, with more than three times that population, is a borough. Several of the cities are places which are or have been the seats of bishops or archbishops (as Canterbury, York, and Oxford); others have been given the title by royal grant (as Leeds and Sheffield). When the crown desires to honor a borough,

5. A city.

¹There are four county boroughs with less than 50,000 population—Canterbury, Worcester, Chester, and Burton-on-Trent. These exceptions are due to historical or other special reasons. No new county boroughs with populations under 50,000 can now be created, and even with a population above this figure it is difficult to secure the higher status because of the spirited opposition which the county councils invariably put forward. This conflict between boroughs and counties over the matter of creating new county boroughs was one of the reasons for the appointment of the Royal Commission on Local Government in 1923.

this is one way of doing it.¹ By obtaining this honorary designation a borough does not change either the form or the functions of its government. It gets no new legal status. About the only difference is that its mayor then becomes known as the lord mayor.²

6. The urban district.

The distinction between a borough and an urban district is of much greater consequence. An urban district is a thickly populated area which has not received a borough charter and hence is not governed under the provisions of the Municipal Corporations Act, but which has been organized as a unit of local government and given a framework somewhat simpler than that of the borough. At present there are more than eight hundred of these communities, with populations ranging from five hundred to seventy-five thousand, and new urban districts are being created almost every year by joint action of the county councils and the Ministry of Health. Every borough, moreover, is ipso facto an urban district, for the borough council possesses every power that may be given to the authorities of any such district.

Summary.

In brief, then, any non-rural area which has been so organized under the Act of 1894 is an urban district; if it has at any time received a borough charter, it is a borough; if it has been removed from the jurisdiction of the administrative county in which it is situated, it is a county borough, otherwise it is termed a municipal borough; if it is or has been the head of a diocese, or if it has received the title by royal patent, it is a city.

Importance of the borough among areas of local government.

Among these various areas of urban government the most important for the student of municipal affairs is the borough, although many of the urban districts are of equal consequence. The Act of 1835 enumerated one hundred and seventy-eight boroughs to which its provisions were forthwith made applicable, but it also provided that the crown should have power to charter new boroughs in accordance with the terms of this act. This

¹ Among the larger places the honor has now been pretty generally accorded. Birmingham, Liverpool, Manchester, Sheffield, Bradford, Bristol, Leeds, Newcastle-on-Tyne, Nottingham, are all of them "cities".

² The lord mayor, of course, does not automatically become a peer or a member of the House of Lords. This explanation may seem superfluous to an English reader; but to the average American who commonly thinks of lords temporal, lords spiritual, law lords, and lord mayors as being in the same class, the caveat is by no means uncalled for.

requirement as to the uniformity of all borough charters was retained in the Act of 1882.¹ England has, therefore, neither the general nor the special charter system, as we use these terms in the United States. Each borough has its own charter; in some instances it is a yellowed parchment of very ancient date; in others a brand-new document bearing the royal sign-manual and the great seal of the realm. In either case its terms have been conformed to the general provisions of the laws which govern municipal corporations. Furthermore, every application for a new borough charter is considered on its individual merits. Although population is one of the factors involved, there is no arrangement whereby an urban district, however large its population, can obtain a borough charter without a petition, a hearing, and a grant on behalf of the crown. In that sense England has the special-charter system. On the other hand, all these borough charters establish exactly the same organs of municipal government. They do not, as in the United States, give one city a mayor and council, another a commission form of government, another a city manager, and so on. They establish uniformity in the *general organization* of the municipal authorities. This uniformity, however, does not extend to the *powers* possessed by different boroughs. Such powers show some variation from borough to borough, for the reason that Parliament is in the habit of granting, from time to time by special act, privileges to one borough which it does not give to the others. In England there are no constitutional restrictions on the enactment of special legislation for individual cities, as there are in many American states.²

Borough
charters.

Their
nature.

When any place desires to be chartered as a borough, the first step is to draw up a petition signed by the inhabitants within the parish or urban district concerned. Or, if it sees fit, an urban district council may present the petition on behalf of the inhabitants. This petition, addressed to the crown, is referred to the Privy Council, which decides the matter after legal

How
obtained :

1. Filing
of a peti-
tion.

¹ Strictly speaking, it is possible for a place to be granted a borough charter and yet not be brought under the Municipal Corporations Act. See the wording of the Act (Section 210) quoted *below* on p. 28, footnote. But since 1835 no place has been chartered as a borough and yet left outside the scope of the Act. If this were done it would create a new municipal entity.

² For a statement of these restrictions, see H. L. McBain, *The Law and the Practice of Municipal Home Rule* (New York, 1916), ch. iii.

2. Notice
to county
council,
etc.

inquiry.¹ The petition does not need to be signed by a majority of the ratepayers in the area affected. When the petition is filed it must be referred to a committee of the Privy Council; notice is then given to the county council of the county in which the area is located and also to the Ministry of Health. The Act of 1882 further requires that notice of the petition shall be published in the *London Gazette* at least one month before the time set by the committee of the Privy Council for a hearing, and that it shall be otherwise published in such manner as the committee direct for the purpose of making it known to all persons interested.² A counter-petition may then be filed by other inhabitants concerned.

3. The
local
enquiry.

Meanwhile a local enquiry is held. The making of this enquiry is entrusted to a commissioner who is appointed for the purpose. He is always a barrister with special knowledge of local government law and procedure. The commissioner goes to the place and investigates the merits of the application for a charter. Having done this, he makes a report to the Privy Council which transmits a copy to the Ministry of Health for its advice.

4. Action
of the
Privy
Council.

Ordinarily the recommendation of the commissioner is followed, especially if it be subsequently approved by the Ministry of Health; but the committee of the Privy Council is not bound by the findings of either. Sometimes it disregards them, as in 1913, when a borough charter was granted to Fowey in Cornwall although it had a population of less than twenty-five hundred. The creation or non-creation of a new borough does not ordinarily come before Parliament; it is a matter for the crown to settle on the advice of the Privy Council after a committee enquiry. The Minister of Health may advise, but he has no veto.

If it is decided to grant the petition, the Privy Council then

¹The provision is laid down in the Municipal Corporations (Consolidation) Act of 1882 as follows: "If on the petition to the Queen of the inhabitant householders of any town or towns or district in England, or of any of those inhabitants, praying for the grant of a charter of corporation, Her Majesty, by the advice of her Privy Council, thinks fit by charter to create such town, towns, or district, or any parts thereof specified in the charter, with or without any adjoining place, a municipal borough, and to incorporate the inhabitants thereof, it shall be lawful for Her Majesty by the charter to extend to that municipal borough and the inhabitants thereof so incorporated the provisions of the Municipal Corporations Acts"—*Section 210*.

²Municipal Corporations (Consolidation) Act of 1882, *Section 211*.

requests the petitioners to submit a draft charter and scheme of borough organization, accompanied by a large-scale map showing the boundaries which would be assigned to the borough and its wards. As a matter of practice the charter must bring the new borough within the scope of the Municipal Corporation Acts, and for this reason all borough charters are essentially alike. Nevertheless the draft charter is carefully scrutinized by various national authorities in London; amendments are insisted upon when necessary; and finally the document is submitted to His Majesty in Council for approval. It is thereupon promulgated by the Home Secretary.

5. The draft charter and scheme.

But in certain cases the procedure is not so simple. If, when a petition is presented to the crown asking for a borough charter, a counter-petition signed by one-twentieth or more of the inhabitants is presented, the approval of the draft-charter and scheme requires confirmation by Parliament. Confirmation is usually given by the introduction of a public bill, but in certain cases the matter may be referred to a committee and go through its various stages as a private bill.¹

6. Final approval.

7. Parliamentary confirmation in certain cases.

In general, then, the steps in obtaining a borough charter are as follows: (1) a petition from some of the inhabitants (not necessarily a majority of them) or from an urban district council, (2) due notices sent to all concerned, (3) opportunity for the filing of a counter-petition, (4) reference of the matter to a commissioner who holds a local enquiry and reports his findings, (5) reference of these findings to the Ministry of Health for its advice or comments, (6) preparation of a draft-charter, scheme, and map, (7) approval of these by the Privy Council, and (8) parliamentary confirmation in certain cases.

Summary of the procedure.

The borough charter, if granted, sets forth the boundaries of the borough; it prescribes the number of councillors, fixes the number and boundaries of the wards (if any), sets the date for the first election of councillors and aldermen, and provides that "the mayor, aldermen, and burgesses shall have the powers, authorities, immunities and privileges usually vested by law in the mayor, aldermen, and burgesses of a municipal borough". Every charter granted to a borough must be laid before both

What an English borough charter contains.

¹For a full statement of the various steps in procedure see the *First Report of the Royal Commission on Local Government* (London, 1925), pp. 20-26.

Houses of Parliament within a prescribed time, but this in most instances is merely a matter of form, because no action on the part of either House is necessary except in the case above indicated. Once granted in accordance with the prescribed forms, a borough charter may not be questioned as to its validity in any legal proceeding whatsoever.

Applica-
tions for
charters
are fre-
quently
refused.

Getting a borough charter is not an easy matter, for most petitions are opposed from some quarter. The strict scrutiny which the authorities apply to applications is shown by the fact that during the period from 1888 to 1925 they refused more than one third of all the requests received by them. Since the former date only fifty-six new charters have been granted, an average of two charters per annum. Nevertheless, the number of municipal boroughs has more than doubled since 1835. The smallest municipal borough in England is Hedon, with about a thousand inhabitants; the largest is Birmingham, with almost a million.¹

Why
borough
charters
are
desired.

Why should any urban district desire to be chartered as a borough? First of all, there are various advantages which go with borough status. The borough is the primate among areas of English local government. It has the dignity of a mayor at its head; it has a body of aldermen who give continuity to its government; its council has powers which are not exercisable by any other local body; it may have its own police force and its own stipendiary magistrate.² It is said that the people take more interest in self-government when they are organized under a borough charter; the council is larger, and more of the citizens can share in the conduct of local affairs. A borough has an advantage over an urban district in that its council can adopt by-laws under a general authority known as "the good rule and government" power, or, as we would say in America, "the police power". A borough is a municipal corporation with perpetual succession, a corporate seal, a town hall, a coat-of-arms, and other glittering appurtenances. Much historic glamor attaches to a borough—but none at all to an urban district.

When the famous royal commission made its investigations of

¹ Reliable statistics of borough population may be found in the *Municipal Year Book of the United Kingdom*, published annually.

² But it has now become rather difficult to obtain a separate police force for a newly-created borough, and not many boroughs, either new or old, have stipendiary magistrates.

government in 1833-1835, it was able to report that the boundaries of most boroughs were defined with "tolerable accuracy". As a matter of fact, these bounds had mostly been fixed in times so remote as to be beyond the range of legal memory, and it was not deemed advisable that any general readjustment should be undertaken, lest such a proposal arouse local sentiment and put a new obstacle in the path of the general proposals for borough reorganization. After the Act of 1835 had been safely steered through Parliament, however, a municipal boundaries commission was appointed with instructions to go from borough to borough setting the limits of each municipality, adhering as closely as possible to the traditional lines. Only when there was a good reason for alteration was any change to be made. In due time the commission presented its recommendations to Parliament, but no legislation followed and the ancient lines of demarcation remained intact.¹ The significance of the report is to be found, however, in the fact that the national authorities, in their later decisions on questions relating to municipal boundaries, have followed a great many of its recommendations. From 1835 to 1888 borough boundaries were ordinarily changed by Acts of Parliament, a special act being required in each case. Since 1888 the matter of borough limits has been chiefly dealt with by the Local Government Board and its successor, the Ministry of Health, through the issue of provisional orders.² The town council makes application to the Ministry of Health by resolution under the corporate seal of the borough. The application is accompanied by a map in a form prescribed, and must be notified to all parties interested. The Ministry of Health, with the application and other data in hand, sends an inspector to hold a public enquiry on the spot (assuming that the application is opposed) and then decides to grant or deny the application.³ The cost of the local enquiry, not exceeding a certain figure per diem, is paid by the petitioning borough. Large numbers of applications for alterations in borough boundaries come to the Ministry

Borough
bound-
aries.

The
bound-
aries com-
mission of
1835.

Bounda-
ries of
boroughs
are now
changed
by provi-
sional
orders.

¹ *Report of the Boundary Commissioners* (3 vols., London, 1837).

² For an explanation of provisional orders, see *below*, pp. 41-43.

³ The regulations which govern these applications for provisional orders extending borough boundaries are printed in the *Minutes of Evidence Taken before the Royal Commission on Local Government* (London, 1923), Part I, Appendix xxii. A glance at these regulations will show the large amount of data that is required to accompany the application. On the manner of holding the local inquiry, see also *Ibid.*, pp. 84-85.

of Health. It should be mentioned, however, that boroughs still retain their privilege of getting an extension of their boundaries by special Act of Parliament (if they can), and that they occasionally prefer to go at the matter in this way rather than by application to the Ministry of Health.

Changing
a municip-
al bor-
ough into
a county
borough.

When a municipal borough desires to become a county borough it similarly makes application to the Ministry of Health and presents data in support of its request,—provided, of course, that the borough has the fifty thousand population which the statute requires. The minister may decline to consider the application, or, on the other hand, after due public notice and enquiry, the Ministry of Health may constitute it a county borough by provisional order. Or, if the borough prefers, it may make application to Parliament for a special Act. Parliament cannot create a municipal borough without a waiver of the royal prerogative being made by a minister of the crown, for the chartering of a municipal borough is a matter of prerogative; but Parliament can transform a municipal borough into a county borough without any such formality. It has not often been asked to do so, however, because the county councils can be depended upon to offer vigorous opposition to the creation of county boroughs and their opposition is influential enough to be effective.¹

The per-
sonnel of
the munic-
ipal corpo-
ration.

But the English borough is not merely a tract of territory with definite boundaries. It is a group of people as well. The people, indeed, form the “corporation” of the borough, or, as the charters phrase it, “the corporation consists of the mayor, aldermen, and burgesses” or citizens of the borough. The root idea of the municipal corporation is a body of individuals who have been incorporated to act for a common purpose, the purpose in this case being the promotion of the common good. The English borough, as a corporation, acts through the agency of its town council. In England a borough council is usually (though not always) called a “town council”, even though the borough has

The town
council.

¹ During the years 1888-1922 there were thirty-three applications from municipal boroughs asking to be made county boroughs. Of these, twenty-nine were made to the Ministry of Health (or to its predecessor, the Local Government Board), while only four were presented directly to Parliament. Of the twenty-nine, all except six applications were granted by provisional order, but Parliament refused to confirm three of these orders. There is an exhaustive discussion of the whole question in the *First Report of the Royal Commission on Local Government* (London, 1925), pp. 138-478. Every phase of the matter is considered in great detail. This topic is, indeed, the dominating theme of the entire report.

the legal status of a city. This council has a large group of powers derived from a variety of sources.¹

Here we encounter the first of many complications in English municipal government. If you ask an English town clerk what powers his council has the right to exercise, he will refer you to a shelf of consolidated laws, general statutes, private acts, orders in council, provisional orders, and regulations issued by the national authorities. Borough powers do not rest upon any one enactment; they are obtained from several sources, of which the Consolidation Act of 1882 is only one, and in some respects not the most important one. Parliament has never been friendly to the practice of devolving powers upon subordinate lawmaking bodies in broad, general, and unequivocal terms; it has preferred to deal bit by bit with the various branches of local administration (police, health, highways, housing, tramways, etc.); conferring power at different times, by different enactments, and sometimes in different amounts to different municipalities.

Its
powers,
whence
derived:

The first and oldest source of borough powers is, of course, the common law. For centuries before the passing of the Municipal Corporations Act of 1835 the boroughs had ranked as corporations aggregate, with all the common law powers ordinarily attaching to such bodies—as, for example, the right to sue and be sued in the regular law courts of the land, to hold property, to lease or sell it, and the right to have a corporate seal. These powers the Act of 1835 did not take away; it merely rendered more effective, more nearly uniform, and more public the channels through which they should henceforth be exercised. The Consolidation Act of 1882, moreover, reiterated the principle that Parliament did not intend to take away, by implication, any of the powers which the borough corporations had previously possessed. Nothing was to be deemed altered save by express provision.² Hence, even at the present day, a few borough powers sometimes have their ultimate source in the common law and not in any statute

1. From
the com-
mon law.

¹ See *below*, ch. vi.

² "Nothing in this Act shall prejudicially affect any charter granted before the commencement of this Act (December 31, 1882), or take away, abridge, or prejudicially affect any of the rights, powers, privileges, estates, property, duties, liabilities, or obligations vested in or imposed on any municipal corporation existing at the commencement of this Act . . . without prejudice, nevertheless, to the operations of the repeal of enactments by this Act, and to the other express provisions of this Act." Section 250.

or statutes, and when questions relating to the interpretation of these powers arise they are determined in accordance with the rules of the common law.

2. From the Municipal Corporations Acts.

By the Act of 1835, however, as recast in the Act of 1882, and by various amending Acts, the boroughs have gained many powers which at common law they did not possess,—as, for example, the right to levy rates (or local taxes), to establish and maintain local police systems, to build street railways, to provide schools, and so forth. On the other hand, some ancient borough privileges, as for example the right to choose their own magistrates, have been taken away from them. Since 1835 the borough magistrates have been appointed by the crown. The Municipal Corporations Acts of 1835 and 1882 are very important statutes, both of them, but no one should expect to gain a true comprehension of borough powers (as they exist at the present time) by merely studying these two enactments. They are not municipal codes, like the French *Loi Municipale* of 1884; that is, they do not attempt to cover the whole field of municipal organization, powers, and procedure.

3. From general statutes other than the Municipal Corporations Acts.

So we have a third source of borough powers; namely, those conferred by various general Acts such as the Public Health Acts of 1848 and 1875, the Tramways Act of 1870, the Electric Lighting Acts, 1882 and 1888, the various Housing Acts enacted since 1890, the Public Libraries Acts of 1892 and 1919, the Town Planning Acts of 1909 and 1919, the various Education Acts, and all the rest.¹ Some of these measures, like the Public Health Act of 1875, are mandatory in their provisions; that is, they confer powers which every borough must use, and impose duties which every borough must perform. Others, like the Public Libraries Act of 1919, are permissive (or “adoptive”, as they are called); that is, they confer powers upon such boroughs as may choose to adopt them in a manner prescribed. Still others, like the Housing Act of 1921, are in part mandatory and in part permissive. The question whether the municipality will or will not adopt the permissive powers conferred by statute is decided by the council, a two thirds vote being required. Parliament has thus far manifested no disposition to follow the Ameri-

¹ A full list of these general statutes may be found in the *Minutes of Evidence Taken Before the Royal Commission on Local Government* (London, 1923), Part I, Appendix vii.

can practice of submitting such matters to a municipal referendum or vote of the people.¹

A fourth and increasingly important source of English municipal powers, especially in the larger boroughs, is the multitude of local or "private" acts by which Parliament grants authority to individual boroughs. When the provisions of a general statute do not suit the particular needs of any borough, or where they do not convey as much authority as is desired, the town council may present to Parliament a local or private bill framed in accordance with their own conception of what the borough should be permitted to do in a particular field of local activity. For example, there are general statutes relating to municipal water-works, water supply, and water rates (notably the Acts of 1870, 1878, and 1921). But if the provisions of these statutes do not suit the authorities of some borough, by reason of what it believes to be its own special circumstances (physical or financial), the town council may "promote a private bill" asking Parliament to give it special powers. Before taking this action, however, the council must call a public meeting of the voters and secure their approval under the provisions of the Borough Funds Act of 1903. Such applications to Parliament are numerous, especially where large undertakings are contemplated.

This arrangement gives flexibility to the English system of conferring powers upon the municipal authorities. It permits the trying of experiments by individual boroughs. One town council applies for certain powers and obtains them. Others presently follow its example. Then it appears that the action of Parliament in these individual cases has been helpful and that the new powers have not been abused, whereupon Parliament by a general statute sometimes confers the same authority on all municipalities. In other words, the system of private or local Acts enables a process of experimentation to be carried on and paves the way for general legislation. Obtaining powers by private bill is a rather slow and somewhat expensive procedure, however, and the approval of the Ministry of Health must always be obtained before the cost can be defrayed out of the municipal treasury. This enables the central government to put a brake upon the abuse of this procedure.

4. From local or private acts of Parliament.

Importance of this source.

¹The procedure followed in adopting legislation is fully explained in the article on "Adoptive Acts" by Messrs. H. J. Comyns and W. V. Ball in the *Encyclopedia of Local Government Law*, I, 234-269.

Private
bill pro-
cedure.

The procedure in promoting these bills ought to be explained. The town council takes the first step by passing a resolution which authorizes the town clerk or some other official to draft a bill embodying the authority desired. Meanwhile it obtains, by calling a meeting of the voters, authority to spend borough funds in promoting the measure. Then the bill, together with the council's petition, is filed in the Private Bill Office of the House of Commons, accompanied by various explanatory documents.¹ Notice, meanwhile, must be given to all bodies and persons whose interests are likely to be affected. All this must be done before a date fixed by the rules or Standing Orders of the House. Then the petitions are first dealt with by two Examiners of Petitions for Private Bills, one appointed by the House of Lords, the other by the Speaker of the House of Commons. These examiners do not go into the merits of the various private bills but merely make sure that the rules as to filing, notice, and so forth have been complied with. Even if the examiners certify against a petition on this score, the bill may nevertheless be brought before Parliament under certain conditions, but it is usually withdrawn. If the examiners certify favorably, it is introduced, read a first time, and then referred back to the Private Bill Office for examination as to the form in which it is drafted.² It is then given its second reading, and at this point the general principle of the bill (but not the detailed provisions) may be debated in the House. Having been read a second time, the bill goes to a Private Bills Committee for a careful scrutiny of all its clauses. If, however, no petition has been filed in opposition to the bill, it goes to the Committee on Unopposed Bills. In this connection it should be mentioned that there is a Local Legislation Committee, consisting of fifteen members, which is appointed at the beginning of each year to make a preliminary examination of all private bills which seek to give the local authorities any powers of a general nature, in excess of the ordinary police and sanitary powers.³

¹For a more detailed discussion of private bill procedure, see Sir William Anson's *Law of the Constitution* (ed. Gwyer, Oxford, 1922), vol. i, pp. 309-315.

²About half the private bills are introduced in the House of Lords. In general the procedure is the same in both Houses.

³This committee may sit in two sections if the pressure of business so requires. It has become an important factor in English local government and has developed a measure of continuity in its membership. In par-

This is the most important step in the history of a private bill. There are many Private Bills Committees in the House. Each is made up of four disinterested members appointed by the Committee of Selection. The Private Bills Committee then holds a hearing or inquiry at which petitioners or remonstrants are at liberty to present evidence and arguments. They usually do this with the help of legal counsel. The town council, as petitioner, is usually represented by the town clerk and by a "parliamentary agent". A parliamentary agent is a London lawyer (usually a solicitor) who makes a specialty of handling matters before Private Bills Committees. He is paid for his services, of course, and his retainer is part of the cost of promoting the private bill.¹

Hearings
on private
bills.

The town council must have the approval of the Ministry of Health before it incurs these promotion expenses. And, as already mentioned, it must summon a public meeting of the voters. At this meeting, which is often very slimly attended, an explanation of the proposed measure is given, and the question of authorizing expenditure is submitted to those present. If the vote of the meeting is against the proposal, the town council must withdraw the bill (or such parts of it as have been adversely voted on) and incur no further expense in the matter. This is a provision in the interest of economy, for the cost of promoting a private bill is considerable in any case and sometimes very large.

The cost
of promot-
ing pri-
vate bills.

Something should be said about the parliamentary agents and parliamentary counsel who figure so prominently in the expense accounts when the boroughs are promoting local bills or are seeking provisional orders.² These agents and counsellors are ticular it has become customary to retain the same chairman year after year, irrespective of changes in the political complexion of the House. Sir William Middlebrook was chairman from 1913 to 1922, and Sir Thomas Robinson has held the post since the latter date.

Parlia-
mentary
agents.

¹ Many years ago the question arose as to whether parliamentary agents employed to promote private bills for a borough might legally be paid out of public funds. In an important case (*Regina vs. Sheffield, Law Reports*, 6 Queen's Bench, 652) it was decided by the higher court that such payments might not be legally made. As a result of this decision, Parliament in 1872 passed the Borough Funds Act (35-36 Victoria, c. 91), a statute which, as somewhat amended in 1903, now affords legal authority for such disbursements, provided various conditions have been fulfilled.

² Parliamentary agents are usually solicitors, while parliamentary counsel are barristers. The agents prepare the case for presentation; the barristers make the arguments and examine the witnesses. The parliamentary bar is a highly specialized branch of the legal profession and has sometimes counted

specialists who know the procedure and are familiar with the methods followed both at Westminster and at Whitehall. But they are not "lobbyists" in the customary sense of the term. They do not go about the corridors trying to influence members of Parliament. They prepare the case for submission to the committees; they marshal the evidence and may present the final arguments. A private bills committee sits in a semi-judicial capacity; it does not hold "hearings" of the American type; that is to say, it does not afford an indiscriminate opportunity for anyone to appear and have his say irrespective of his direct interest in the measure. Those who desire to be heard in opposition to a private bill must first establish their *locus standi*, as it is called; in other words, they must demonstrate that they have a tangible interest which would be affected by the passage of the measure.¹

Relation
of the gov-
ernment
depart-
ments to
private
bill legis-
lation.

The Committee on Private Bills hears the oral testimony on both sides, examines the documentary exhibits, and hears the arguments of the parliamentary counsel. It also has before it a report on the merits of the proposed measure from the appropriate government department,—from the Ministry of Health, for example, or the Board of Trade, or the Ministry of Transport. This examination of all private bills by the administrative departments is an interesting and significant feature of English parliamentary practice. Each department has its experts who do the work. It is not customary for a department to report on a private bill as a whole; it is more customary to deal with particular clauses in a bill and particularly with such clauses as the department may think objectionable as establishing an unwise precedent, or for any other reason.

Final
Action.

This report from the department, in any event, is often very useful to the members of the committee in their cross-examination of witnesses. Finally, with all the testimony and data in hand, the committee makes its own report to the House. It may recommend that the bill be rejected, or passed, or passed with amendments. In making these recommendations it usually gives weight among its members the ablest lawyers in England. When a local bill is unopposed there is no need to employ parliamentary counsel. The parliamentary agent can prepare the case and present it as well.

¹ Questions of *locus standi* are decided by a board of referees consisting of the chairman and deputy chairman of the Committee of the Whole House in Ways and Means, together with several other members appointed by the Speaker.

to the advice of the central department, but not always. Sometimes a department, like the Ministry of Health, goes on year after year reporting against a particular provision in successive private bills without finding its remonstrances heeded. The committee's recommendation, whatever it may be, is ordinarily accepted by the House of Commons, although it occasionally happens that a private bill is defeated or radically amended in the House notwithstanding a favorable report from the Private Bills Committee to which it had been referred. On the other hand, the enactment of a private bill, against the recommendation of a committee, is a relatively rare occurrence.¹

It cannot be too strongly emphasized that the proceedings before these private bills committees are semi-judicial in character; the atmosphere of the committee-room is that of a court and every endeavor is made to get at the real merits of the measure. It is not a matter of bringing political influences to bear on the members of the committees. Therein the procedure deserves to be commended and it will seem especially commendable to anyone who is familiar with the hearings which are held by legislative committees in the United States. There is no such thing as a semi-judicial consideration of a private bill in any American legislature. On the other hand, the existing English procedure has some grave shortcomings. It is costly to all concerned, especially when a measure is vigorously opposed. Parliamentary agents and counsel exact large retainers; witnesses have to be brought to London; surveys and maps must sometimes be made, and all manner of data compiled.

Getting a local bill enacted is also a time-consuming affair. If a petition for a bill is presented in December and if there is no undue delay, the private act may be passed in the course of six or seven months. That seems a long time to Americans who are accustomed to having their laws turned out with drum-fire rapidity. The existing arrangements also lay a heavy burden upon the time of Parliament, which should be left free to devote itself to the consideration of broader and more important matters. For bear in mind that a private bill must pass both Houses,

Objections
to the ex-
isting pro-
cedure :

(a) The
expense

(b) The
delay.

¹Scottish private bills are dealt with under a different procedure, which is laid down in the Private Legislation Procedure (Scotland) Act of 1899 (62-63 Victoria, c. 47). For a summary of this procedure see Gwyer's edition of Sir William Anson's *Law and Custom of the Constitution* (Oxford, 1922), vol. i, pp. 314-315.

—Lords and Commons.¹ Most of the members are not interested in these local bills, and all sorts of clauses would slip through unnoticed were it not for the watchful eyes of the central departments and the careful scrutiny of the private bills committees.

This watchfulness by the administrative departments is a feature of English legislative procedure which the American system sadly lacks. Nobody, in American state government, is responsible for seeing that individual municipalities are restrained from getting what they are not entitled to. The governor's veto is the only thing that stands in the way and it is not often forthcoming. On the other hand, the English system of private bill procedure affords a somewhat smaller degree of general publicity to local measures than do the legislative systems of the American states; for in England none but the parties directly concerned are notified when a bill is before a committee and only those directly interested are permitted to appear in support of it or in opposition to it, whereas in the United States the hearing on every measure is widely advertised and may be supported or opposed before the committee by any citizen, no matter whether he be directly interested in it or not.²

Local legislation is everywhere the advance guard of general legislation. It has been particularly so in England. There are powers which Parliament could not be induced to bestow upon all cities but which it is willing to grant in some individual case where special need appears. Then the new power proves its worth and other cities ask for it. One after another they obtain it, and finally parliament makes the power general. A whole volume could be written on the various general measures which have grown out of a series of local laws. The Public Health Act of 1875 is a notable example. In France and Germany the tendency has been to evolve a theory and then incorporate it in a general code. That is not the English way of doing things. The general laws relating to municipal powers in England have been built up brick by brick, as it were, without any plan at all. Englishmen sometimes refer to this process as "muddling through"; but it is in fact the embodiment of a supremely wise political philosophy.

¹The procedure in the Lords is even more elaborate than in the Commons.

²This privilege is often grossly abused in the United States, as every legislator knows.

English
and
American
conditions
compared.

The place
of local
laws in
legal evo-
lution.

The fifth and last source of borough powers are the "orders" issued by government departments acting under authority of Parliament. These orders are a form of departmental legislation and somewhat akin to lawmaking by private bill. There are six varieties of "orders", as follows:

5. Powers derived from "orders".

1. Orders made by a central department (like the Ministry of Health, or the Board of Trade), which become effective on issue and do not have to be laid before Parliament.
2. Orders which go into effect upon issue but must be laid before both Houses of Parliament, no action by the latter being required.
3. Orders which do not go into effect at once, but which must be laid before Parliament and become operative in forty days if no objection in either House is raised meanwhile.
4. Orders which do not become effective until confirmed by *resolution* of both Houses. (These are commonly called Special Orders.)
5. Orders which become operative without any action of Parliament unless some authorized body maintains objections, in which case they become "provisional orders" and require parliamentary confirmation.
6. Orders which are provisional, objection or no objection, and do not become finally effective until confirmed by Parliament in a Provisional Orders Confirmation Act.

By means of these various orders and especially by means of the last-named (provisional orders), individual municipalities obtain new powers and additional powers from time to time. Thus the Ministry of Health, by provisional order, may permit a city to extend its waterworks, or to construct additional sewers, or to change its boundaries. The Board of Trade, by provisional order, may empower a borough to establish a municipal gas plant, or to provide municipal docks. The Ministry of Transport may authorize the establishment of a municipal electric lighting plant or the extension of a municipal street railway. The Home Office, the Board of Education, the Board of Agriculture, or other central departments may, within their respective spheres, confer various powers.

Provisional orders are granted to boroughs in response to requests from the town council, but only after an inquiry has been held by some officer of the department, at which inquiry the application may be opposed by any one interested. If the request

Confirmation of provisional orders by Parliament.

for a provisional order be refused, the borough may try to secure the desired authority by private bill; if it be granted, the authority conferred upon the municipality becomes definitely effective when confirmed by Parliament. As a matter of practice three or four of these provisional orders are commonly embodied in a single confirmation bill and given parliamentary sanction together. The confirmation bills go through the two Houses in the same way as other public bills, except that in most cases there is no opposition and no discussion. Parliament may, of course, refuse to confirm a provisional order and it occasionally happens that an individual order contained in one of the bills is stricken out; but such mishaps are infrequent. The method of securing special borough powers by means of provisional orders has grown in favor during the last two decades, because it is more expeditious, less costly, and in almost every other way more satisfactory than proceeding by private bill. There are some instances, however, in which the town council must proceed by private bill because the matter goes beyond the proper scope of a provisional order.

Effects of
this system
in lessening
the burden
upon Par-
liament.

The system of orders and provisional orders renders a great service in relieving Parliament from the task of considering a large grist of minor and local questions. It creates a strong presumption in favor of having these things settled by the administrative experts, not by politicians. American state legislatures sometimes spend a whole day debating whether the boundaries of a city shall be slightly enlarged, whether the ward lines shall be changed, whether some city may borrow money for a new park, or whether some city street may be widened. It has been estimated that the Massachusetts legislature, for example, spends at least one fourth of its time in the discussion of matters which, under the English system, would be covered by provisional orders and confirmed without any parliamentary discussion at all. But the English system would not be practicable in America. It postulates a ministry that enjoys at all times the confidence of the House of Commons. The executive departments, in American government, do not stand in that relation to the legislature or to either branch of it. Hence the American legislature is in no mood to give the administrative departments any power to act, even provisionally, on its behalf. And if it did so, the legislature would refuse to confirm whenever it felt so inclined—and judging

It would
not be
practicable
in America.

from experience it would feel such inclination very often. With a government based upon separation of powers, the English system of granting authority by provisional orders would be bound to work unsatisfactorily.

The English borough derives its powers, therefore, from five sources—from the common law, from the municipal corporations acts, from other general acts both mandatory and adoptive, from local or private acts, and from departmental orders, chiefly from provisional orders. That being the case, one might expect to find a wide variation in the powers of different municipalities. There is some variation, to be sure, but it is not of great importance. If you find one English borough with certain broad powers in any field of local administration (finance, public works, public health, public utilities, or education) you may be sure that all other boroughs have approximately the same powers. The differences relate mainly to specific things such as individual improvement schemes. One borough has the right to issue bonds for a designated public improvement, these bonds running for thirty years. Another borough, for a similar improvement, has been held down to twenty-five-year bonds. That is the sort of difference which results from the lack of uniformity in private acts and provisional orders. It would be accurate to say that Parliament has given the English cities a basic grant of powers and has supplemented this by numerous piecemeal grants through the agency of private acts and provisional orders.

It remains to note a characteristic difference between the American and the English methods of devolving powers upon the local authorities. In the United States it is a common practice to enact laws which bestow various enumerated powers upon the mayor, or upon some municipal board, or upon the city council acting alone, or even upon the chief of police. In England this is not done, at any rate save on rare occasions. Powers are not given to the mayor, or to the borough auditors, or to the chief constable. They are given to the borough, to the municipal corporation as a corporation, to be exercised by it through its corporate organ, the town council. A few separate powers are given to the watch committee of the council and to the education committee; but in general all the legal responsibility for the exercise of borough powers rests with the town council. It may delegate duties, but not powers.

Summary.

The borough council is the focus of borough powers in England.

The tradition of local self-government has always been strong in England and still retains much of its pristine strength. Many of the powers possessed by the boroughs are exercised independently and at discretion; they are in the hands of the town council to utilize in its own way. But there are also some powers which the councils do not exercise at their own discretion. For Parliament, in granting these powers, has made their exercise subject to central supervision. This is true of a large and steadily increasing range of municipal authority, notably in relation to public health, sanitation, housing, education, and "municipal trade"—which is the English term for the municipal ownership and operation of public utilities, such as lighting and transportation. The scope and nature of this central supervision will be discussed a little later.

The interpretation of borough powers.

In any event, the town council must keep within the range of powers granted to it. It may exercise no authority save such as belongs to the borough by common law or has been granted to it by Parliament, either directly or indirectly. As a rule the English courts have dealt leniently with the borough authorities and have upheld them in the exercise of powers which, although not expressly conferred by Act of Parliament, have seemed to follow by fair implication. But where any action of the town council operates to impair the rights of the individual citizen, or to impose a pecuniary burden upon him, the English courts have applied the rule of strict construction to municipal powers. They have permitted the town council no greater range of authority than the express wording of the statute confers.

The liability of municipal corporations in England:

With reference to the city's liability for the non-use of its governmental powers the rules of law are the same in England and the United States. Both the English and the American courts have held that a municipal corporation is not liable to an action for damages by reason of non-feasance, that is, a failure to make use of the powers that have been conferred upon it in general terms. When a general power to enact ordinances or bylaws on a given subject has been given to a local authority, no person has a legal right to demand the exercise of this power in any particular way or to any greater extent than the local authority, in the exercise of its discretion, may see fit to provide. This is the rule in both countries. But the English courts have gone somewhat farther than the American in the application of this

(a) for the non-use of powers.

rule. In England it has been held that the local authority is not liable for non-feasance even when a specific power has been positively and peremptorily given to it by an Act of Parliament, with an express obligation to exercise such power. If, in such case, the borough council neglects or declines to utilize such power by enacting an appropriate bylaw, no action for damages can be maintained in the normal course of events by anyone who has suffered injury by reason of this non-feasance.¹ In the United States, on the other hand, it has been generally held that when the legislature imposes a specific duty upon a municipal corporation, and when damage results to the person or property of an individual through failure to perform such duty, an action may be maintained.

But the chief differences between the rules of municipal law in the two countries are concerned with the liability of the city for the torts, or wrongful acts, of its agents or employees. In both Great Britain and the United States it is a general rule of law that an ordinary employer is liable for the negligence or faults of his agents or employees as respects all torts committed within the scope of their respective employments. This is known as the principle of *respondeat superior*. It is sometimes expressed in the Latin maxim: *Qui facit per alium, facit per se*. Now the officials and employees of a municipal corporation are its agents, and being human they must inevitably fail to exercise due diligence at times. As a result of their negligence, damage will be done to the property of individuals. Is the municipal corporation liable for such damage?

(b) for the torts of their officials and employees.

In the United States the courts have made a distinction between the "strictly governmental" and the "non-governmental or commercial" functions of the municipality. Policing, fire protection, public health, education, and some other functions are classed as governmental; while water supply, the sale of gas or electricity, markets, and so forth are rated as commercial. The city's liability depends on the function.² It must answer for the

The American rule.

¹ An English municipal corporation may, however, be indicted by a grand jury for non-feasance as respects a duty imposed by statute. Or, if the statute prescribes a definite penalty, that penalty may be imposed. See the discussion in Gleeson E. Robinson's *Public Authorities and Legal Liability* (London, 1926), pp. 214-222, and the cases therein cited.

² For a full discussion of this matter, with references to the judicial decisions, see the author's *Government of American Cities* (fourth edition, New York, 1926), pp. 121-128.

torts of its employees in the case of the commercial enterprises, but it is immune from liability where the employees are acting in a governmental capacity. There is also a twilight zone, which includes functions that are not clearly in one class or the other, for example, streets, waste collection, and bridges. With respect to the torts of municipal employees in this field the rules of law differ from one state to another. And in any event the American jurisprudence seems far from satisfactory. It works frequent and serious injustice. A fire engine, negligently driven by a municipal employee, runs into the automobile of an individual and makes a wreck of it. The individual has no recourse against the city because the employee is held to have been engaged in the performance of a governmental function. But if an employee of the water department, or of the municipal lighting department, does exactly the same damage, under precisely similar circumstances, the city must compensate the individual for the reason that the function is in this case commercial, not governmental. There is a wrong to the individual in both cases, but an effective remedy in one of them only.

The Eng-
lish rule.

In Great Britain the rules of law make no such distinction. The municipal corporation, in general, is liable for the torts of its officials and employees no matter what their function, whether it be fire protection or water supply or waste collection.¹ To this generalization, however, there are a couple of exceptions. In the first place there are a few municipal officers whose appointment the national government controls. The most conspicuous example is the medical officer of health. The national government has agreed to pay half the salary of this officer in each borough and the laws provide that in all such cases his appointment must have the approval of the Ministry of Health. He thus becomes an agent of the crown, and not an agent of the local authority. And the crown is not liable for the torts of its agents, since the king can do no wrong. In the second place the relation between the municipal corporation and the employee must be clearly a relation of principal and agent at common law. The employment of somebody to perform a designated function for the local authority does not necessarily make him the agent of the latter. Thus, where a borough council engaged a local physi-

¹ The best and most recent book on this subject is Gleeson E. Robinson's *Public Authorities and Legal Liability* (London, 1926).

cian to supervise the municipal hospital it was held that he did not thereby become the agent of the municipal corporation any more than a doctor becomes his patient's agent when called to a sick bed. Finally, attention should be called to the provisions of the Public Authorities Protection Act of 1893 which limits the time during which actions can be brought against local authorities for the torts of their agents.

Yet when ample allowance is made for these exceptions it is clear that the redress afforded in Great Britain is much more generous to the individual than in the United States. The English municipality has no such degree of immunity as the American city possesses. Possibly the range of its liability for the torts of its employees in all branches of administration is one of the things, (although by no means the only one) which have impelled the English municipalities to use great care in the selection of their administrative personnel. May it not be that American cities would be more circumspect in the selection of policemen, firemen, sanitary inspectors, and so on, if they were held to a strict legal accountability for the negligence or inefficiency of these agents?

Summary
and a
query.

CHAPTER III

CENTRAL CONTROL OF CITY GOVERNMENT

An Anglo-American contrast.

The English borough, like the American city, is the creature of the higher authorities. But there is this difference: in most cases the American city is protected (by the constitution of the state) against certain forms of interference from above. The state constitutions often provide, for example, that no special laws relating to individual cities shall be passed, and that no city shall be deprived of its right to elect its own local officers. In some American states, indeed, the cities have been given the right to frame their own charters, to adopt the same by popular vote, and to be immune from legislative interference with the provisions of these home rule charters in so far as they deal with strictly municipal affairs.

Traditions versus written guarantees.

In England the borough has no such constitutional protection. There is no technical barrier to parliamentary interference. For Parliament is supreme; it can alter the form of government in any English municipality; it can give or take away powers; it could even abolish the boroughs altogether if it chose. All this is as a lawyer would phrase it. But in a broader sense the English borough has a good deal of "constitutional" protection against legislative interference. It has the protection which comes from a long-continued and sound tradition. The English constitution is made up of customs, usages, and traditions which are just as binding upon Parliament as the provisions of any written document could be—in some ways more so. And among these traditions one of the oldest and most firmly rooted is the principle of local self-government.

In America.

In America we incline to put our trust in the written word. We write into the state constitution, for example, a provision that the legislature must not pass any law relating to the government of an individual city. Then the legislature proceeds to evade the plain intent of this stipulation by enacting a law for "all cities having more than four hundred thousand but less than

half a million inhabitants", there being only one city that falls in that category. Or it creates a new urban district, comprising a single city with a small patch of territory outside, and then legislates at will for this "district", on the principle that it is not a "city" within the words of the constitution. Among the forty-eight American states there is not one which has yet been able to devise a constitutional provision in relation to local self-government that is absolutely puncture-proof.¹

The English city, without any written formal safeguards for its independence, has fared better. Parliamentary interference in the affairs of individual boroughs, against the will of the inhabitants, is extremely rare. Parliament passes special laws (private acts) for cities when it is petitioned to do so, and when the petition is shown to be in the general interest. It does not interfere on its own initiative, in defiance of local sentiment, and with an eye to partisan advantage. So far as protection against legislative interference is concerned, the English borough is better served than the American city even where the latter is located in one of the home rule states.

In
England.

Moribus antiquis stat res Romana virisque. What habit is to an individual, says Lord Bryce, so are traditions to a nation whose life extends over hundreds of years. In them dwells the moral continuity of existence. They form the social heritage. Psychologists since the days of Aristotle have dilated upon the supreme importance of habit as the basis of individual action, but political scientists have given no such thought to the influence of tradition upon the conduct of men in the mass. Yet they ought to do so, for much disillusionment has come from our failure to realize that traditions are stronger than laws,—stronger indeed than those fundamental laws which we call constitutions. When a legislative body has developed the tradition of letting the cities and towns alone there is no need for an express prohibition. When, on the contrary, it has developed the habit of meddling with local affairs, and has become confirmed in that habit, a good deal more is needed than a stroke of the pen to ensure a changing of its ways.

A digres-
sion on
this point.

It is sometimes said that American legislatures interfere with cities while Parliament does not. But that is not the right way

¹ See the author's *Government of American Cities* (4th edition, New York, 1926), chap. iv.

The contrast between legislative and administrative control.

to put it. The English municipalities have a greater freedom from *legislative* interference, it is true, but they are subject to a larger amount of *administrative* control. It is the method, therefore, rather than the fact of control that differentiates between English and American cities as respects their relations with the higher powers. The English city is given a wider range of authority by law, but in its exercise of these powers is held under rigid supervision by some central administrative department—the Ministry of Health, the Board of Trade, or the Home Office. The American city gets a narrower range of statutory powers, and the state legislature sets various general limits on the way in which these powers may be exercised; but within these limits the municipal authorities are free to act as they please. They do not have to obtain approval from any state administrative department for what they do within the scope of their powers. One might fairly generalize the contrast by saying that in the United States there is a great deal of statutory interference in the affairs of individual cities and that much of this interference has been uncalled-for, dictated by partisan considerations, and distasteful to the cities concerned. On the other hand, there is very little supervision of municipal affairs by the administrative authorities of the state.¹ In England this situation is reversed. It is the administrative authorities, acting as the agents of Parliament, who do the interfering—if that is what you choose to call it. All things considered, the English plan has the greater merit.

How central administrative supervision developed in England.

Central administrative supervision over the affairs of English cities is almost entirely the product of the past hundred years. Prior to the Act of 1835 there was very little of it. This absence of central administrative control, and the frequent passage of special acts for the benefit of individual boroughs, were among the causes of borough misgovernment in those older days. More especially in the administration of poor-law relief the absence of central control permitted every parish to do as it pleased, with a resulting wastefulness and brutality that almost passed belief.² In one of Crabbe's poems, entitled "The Borough",

¹ It is increasing, however, as indicated by the central supervision over municipal finance that has been established in Indiana and is now under consideration in other states.

² The change in English popular feeling that rendered possible the abandonment of the old policy of complete administrative decentralization and the introduction of the new organs of central control is discussed at length in A. V. Dicey's *Law and Public Opinion in England* (London, 1905).

written about 1810, the author pictures the unsupervised work-house of a century ago:

"There is yon house that holds the parish poor,
Whose gloomy walls contain a dismal door;
There children dwell who knew no parents' care,
Parents who knew no children's love dwell there;
The lame, the blind, and—far the happiest they—
The moping idiot and the madman gay.
Here sorrowing they kindred sorrow scan,
And the cold charities of man to man."

Hence the great Poor Law of 1834 provided for the establishment of a central commission with the duty of supervising the work of local poor relief.¹ Although the commission became unpopular in various quarters it performed its duties so well that in 1847, when the necessity of central control had come to be more generally recognized, the commissioners were replaced by a Poor Law Board, made up of a president and four other members of the cabinet ex-officio. In this way the work of the board was brought into direct contact with Parliament. A quarter-century later, in 1871, the Poor Law Board was reorganized and under the new title of Local Government Board assumed supervision over a broad range of municipal affairs.² It remained, however, a "sham" board because its president performed all its functions, his ex-officio colleagues being titular members only. By subsequent legislation its powers were steadily widened until the Local Government Board became the most powerful of the several central organs exercising supervisory jurisdiction over the affairs of English municipalities. In 1919 the Local Government Board disappeared, after a history of nearly half a century, and most of its functions were given to the newly created Ministry of Health.³

The Poor
Law of
1834.

The estab-
lishment
of the Local
Govern-
ment Board
in 1871.

The movement which brought the Poor Law Commissioners and the Local Government Board into existence did not stop

¹ 4-5 William IV, c. 76.

² 34-35 Victoria, c. 70.

³ At the time of its abolition in 1919 the Local Government Board consisted of a President (who performed all its functions) and eight ex-officio members of the ministry; viz., the Lord President of the Council, the Secretaries of State for Foreign Affairs, Home Affairs, War, India, and the Colonies, the Chancellor of the Exchequer, and the Lord Privy Seal.

The evolution of other supervising authorities.

there. When the country became converted to sanitary reform in 1848 a General Board of Health was established and continued for ten years, when it was dissolved and most of its functions distributed among other central officers. Central committees for the supervision and control of local education were also created and these were later unified into a single central body, the Board of Education. Likewise a merger of two special commissions resulted in the establishment of the Board of Agriculture. To some of the existing central officers, furthermore, new supervisory functions were gradually assigned. The Home Office, for example, which had all but ceased to be an active department in the opening years of the nineteenth century, was brought into renewed prominence by the transfer to it of supervision over local police. The old Council for Trade and Plantations, having been duly shorn of its original functions, was invested with a new title (Board of Trade) and with new functions which brought it into touch with the local authorities wherever the latter undertook to provide public utilities. Finally, in 1919, came the establishment of the Ministry of Transport, with various powers of supervision over street railways, omnibuses, ferries, canals, and docks. In addition it may be mentioned that the Privy Council still deals with the granting of borough charters and the Public Works Loan Board, another central authority, advises the Treasury respecting the loan of money to the municipalities for various public enterprises.¹ All these agencies of central control have come to the front in a way that constitutes one of the most significant developments in the English municipal system during the nineteenth century.² It is essential, therefore, that their structure and functions be briefly explained.

The Ministry of Health, as has been said, is the successor of the Local Government Board which functioned from 1871 to 1919.³ By the Ministry of Health Act (1919) this new depart-

¹This does not exhaust the list of central offices having supervision over various phases of municipal government. Some supervisory powers are also exercised by the Treasury, the Ministry of Labor, and the Ministry of Pensions. See also *below*, p. 70.

²The history of this development is set forth in Redlich and Hirst's *Local Government in England*, II, 237 ff., and in M. R. Maltbie's *English Local Government of Today* (New York, 1897).

³The history of the old Local Government Board, which did good work in its day, may be studied in its published annual reports and in W. A. Casson's *Decisions of the Local Government Board*; but a general discussion of the topic may be found in M. R. Maltbie's paper on "The Local

ment was given most of the powers and duties of the Local Government Board together with various supervisory functions (more or less closely connected with the public health) which had been vested in the Board of Education and in the Home Office.¹ The new designation of this department is by no means so appropriate as its old title, Local Government Board, for although the Ministry of Health has a good deal to do with public health in the usual sense of the term, it has even more to do with poor relief, the fixing of municipal boundaries, the gathering of municipal statistics, the approval of municipal loans, and the auditing of local accounts. It might well be called, as in France, the Ministry of the Interior, were it not for the fact that the existence of the Home Office (which controls municipal policing) would make such a designation confusing. Great Britain, at any rate, has no single ministry of municipal affairs. The Ministry of Health is the nearest approach to it, but other central departments have about as much to do with the supervision of local government, and perhaps more.

The Ministry of Health is headed by a member of the cabinet.² Like the other ministers, he is chosen by the prime minister and has a seat in one of the two Houses of Parliament, usually in the House of Commons. His office is political and he leaves it

Government Board", in the *Political Science Quarterly*, XIII, 232 ff., and in J. Litaby's article on "The Local Government Board" in the *Encyclopedia of Local Government Law*, IV, 246-263.

¹ More specifically it obtained, by the Act of 1919, the following powers, duties, and functions:

- (a) All the powers and duties formerly belonging to the Local Government Board, with the exception of approving loans for street railway and harbor enterprises by the local authorities. This duty was given to the Ministry of Transport.
- (b) All the functions of the Insurance Commissioners.
- (c) All the powers of the Board of Education with respect to the medical inspection of children and to health assistance in relation to maternity.
- (d) All the powers given to the Privy Council or to the Lord President of the Council under the Midwives Acts (1902 and 1918).
- (e) The powers formerly exercised by the Home Office in respect to the administration of the Children Act (1908).
- (f) The control of lunacy and mental deficiency. (This was made permissive in the Act, but the transfer from the Home Office was effected in 1920.)
- (g) The care of sick soldiers whenever, by order in council, a transfer of such function may be made from the Ministry of Pensions.
- (h) Any powers and duties of any government department which relate to the health of the people.

² For a full account of its organization, functions, and procedure see Sir Arthur Newsholme, *The Ministry of Health* (London, 1925).

Present central departments having supervisory jurisdiction over the municipal authorities:

1. The Ministry of Health.

Its organization.

when the cabinet changes. Below him is a large permanent staff, including a first and a second secretary, assistant secretaries, inspectors, auditors, and experts of all types (in health, engineering, social welfare, accounting, finance, and law), most of whom have been appointed under the civil service regulations and promoted from subordinate positions. This staff is permanent; it does not change when cabinets come and go.¹

Its powers.

The powers of the Ministry of Health, though fundamentally based on the law of 1871 which created the Local Government Board, and on the Public Health Act of 1875, were considerably altered by the statute which created it in 1919. The latter Act, however, did not venture to set forth a complete enumeration of the ministry's varied functions. Had it done so it would have bewildered Parliament as effectually as Glanvil was upset by the *confusa multitudo* of the laws in the twelfth century. Nor would such an enumeration have served much useful purpose for it would have become incomplete and inaccurate within a very few years. It is a rare session of Parliament that does not see the passage of some new measure conferring additional authority upon the Ministry of Health, or imposing some new duty upon it. Thus the work keeps constantly expanding. It has become so varied and so intricate, that only the experts of the ministry itself have any clear conception of it. In a general way, however, the functions performed by this department may be grouped under four heads—legislative, administrative, advisory, and financial.

I. Legislative powers the regulation of:

(a) poor-law relief.

The Ministry of Health inherited from the Local Government Board some important powers of "administrative legislation," particularly with reference to the system of public poor relief.² It may issue to the guardians of poor-law unions a general regulation which is binding throughout the whole country, or an order which affects a single union only. The Local Government

¹ The only exception is the parliamentary secretary, who is a political official and hence non-permanent.

² On the history and organization of public poor relief in England, see Sir George Nicholls and Thomas Mackay, *History of the English Poor Law* (3 vols., London, 1912); P. F. Aschrott, *The English Poor Law System, Past and Present* (London, 1902); T. W. Fowle, *The Poor Law* (London, 1906); Geoffrey Drage, *The State and the Poor* (London, 1914), and J. J. Clarke, *Social Administration, including the Poor Laws* (London, 1921). Attention should also be called to the *Report of the Royal Commission on Poor Law and the Relief of Distress* (London, 1909). The minority report of this commission is printed in two volumes, by Sidney and Beatrice Webb, entitled *The Break-up of the Poor Law* (London, 1911) and *The Public Organization of the Labor Market* (London, 1911).

Board, during the years 1871-1919, issued an enormous number of such orders, and each year now marks a further addition to the list at the hands of the Ministry of Health. These regulations deal with all sorts of matters, from general questions relating to the methods of raising rates or taxes for the support of the poor, to petty details in regard to the equipment of individual poorhouses. An order prescribing the manner in which the accounts of guardians shall be audited shares space with a rule fixing the allowance of snuff to aged paupers. Nothing in the domain of public charity seems too large or too small to engage the watchful care of the inspectors and auditors. A special branch of the ministry known as the Public Assistance Division has immediate supervision of this work.

But the supervision of local poor relief is not the only field in which the powers of the ministry are exercised. It is the central authority in all matters relating to local sanitation and the care of the public health. It issues orders designed to carry into actual effect the provisions of the Public Health Acts, including rules for the compilation of vital statistics, the prevention of epidemics, the inspection of local milk supplies, and a variety of like matters. It may compel a town council to provide a public water supply, or to appoint a medical officer of health, or to establish a public cemetery, or to improve its drainage system. It has a variety of functions in connection with housing and town planning. As general guardian of the public health its power to issue orders is almost as great as in the domain of public poor relief.¹ (b) public health.

A third important order-issuing power of the ministry concerns itself with municipal boundaries. With reference to the poor-law unions, its power to divide or unite areas, to alter boundaries, and to create new administrative units is of the most (c) local boundaries.

¹ A complete set of all the English statutes relating to public health (down to 1919) may be found in Herbert Davey's *Public Health Statutes* (London, 1921). G. Glen, *Law of Public Health and Local Government* (14th edition, 6 vols., London, 1922), and B. G. Bannington, *English Public Health Administration* (London, 1915), are the standard treatises on the subject. See also the discussion in Sir Arthur Newsholme's *Ministry of Health* (London, 1925), which covers the history of the public health services, the relation of the ministry to local health officers, the principles and scope of public health administration, health insurance, and public health research. Newsholme points out that notwithstanding the provisions of the Act of 1919, certain powers of public health supervision are still vested in other departments, for example, factory hygiene is still supervised by the Home Office.

extensive nature; but with reference to the areas and boundaries of boroughs its authority is much more restricted and its action in most cases is subject to parliamentary confirmation.¹

Importance
of the
ministry's
legislative
functions.

These powers of administrative lawmaking give the ministry a wide range of jurisdiction, but they are not exercised at discretion. On the contrary they are circumscribed in several ways. The Ministry of Health, for example, may issue orders only upon the authority of a parliamentary statute. Its order-issuing powers are delegated to it by Parliament for the purpose of making sure that the statutes of the realm shall be applied in the local jurisdictions. The ministry acts as the agent of Parliament and its authority may at any moment be rescinded. Again, it must lay before Parliament, as soon as practicable after promulgation, most of the orders that it makes, and in the case of "provisional orders" these do not become effective until they have received parliamentary confirmation.² Finally, any citizen may apply to the High Court of Justice for a writ of certiorari, which brings before this court the question whether the ministry has exceeded its powers. On this ground any order issued by it may be quashed by the court. These various safeguards have proved sufficient to keep ministerial control within its proper sphere; but even if they were not adequate there would still remain the most effectual safeguard of all—the responsibility of the minister to the elected representatives of the people. Every member of the English cabinet is accountable to the House of Commons for all his official acts. He may be questioned on the floor of the House and at the proper time may be compelled to find justification for his actions in a vote of confidence.

Safeguards
against
abuses of
its powers.

II. Administrative powers:

(a) Approval of local regulations.

In addition to the foregoing direct and positive powers, the ministry has important functions in the matter of annulling or amending bylaws made by the local authorities. Its approval must be sought for all regulations framed by the guardians of the poor-law unions and for all bylaws made by a borough council, provided they relate to matters of sanitation or public health or to any other matter within the supervisory jurisdiction of the ministry. Such bylaws may be disallowed either in whole or in part, if the ministry finds them contrary to the provisions of a statute.³ This power serves not merely as a check upon the in-

¹ See *above*, pp. 31-32.

² See *above*, p. 42.

³ By-laws dealing merely with "the good rule and government" of a

initiative of the local authorities; its places at their disposal the wide experience which the ministry has had in dealing with such matters. It has operated to secure a closer approach to uniformity in the municipal regulations relating to the public health, for the ministry provides a set of model bylaws which the local authorities can follow without danger of disallowance. Thus it has been brought about that a large proportion of the health and sanitary regulations of the English boroughs have been drafted by the paid experts of the national government in London. This is particularly true of the smaller boroughs and urban districts. In the smaller cities of the United States the health rules (in so far as the state laws do not cover the ground) are usually framed by a local physician who knows very little about the subject in its broader aspects, or by members of the city council who know nothing at all about it.

This power of disallowance and amendment might seem, on its face, to constitute a gross infringement of the principle of municipal home rule and to afford an opportunity for meddling interference with the acts of local authorities. Such, however, is not the case; for the right of veto or amendment may be exercised only upon the ground that the municipal bylaw is contrary to statute, never because it appears to be unwise or inexpedient. So long as the borough councils keep within their legal powers they are free from central interference, and when they unconsciously exceed their authority, the uplifted hand of the national government ought to be welcomed, not resented. The old Local Government Board, in its day, spared the boroughs much costly litigation that would have followed their attempts to enforce regulations which they had no power to enact.

There are also many other matters in which the local authorities take the initiative but which require the ministry's approval. The local boards of guardians, for example, fix the schedule of pay for officers connected with poor-law administration; but the schedule must go to the Ministry of Health for its approval. So with the appointment and dismissal of the more important poor-law officers. The town councils, by bylaw, fix the scale of burial fees, market tolls, taxicab fares, and ferry charges; but here again the approval of the ministry must be had. Likewise

borough, not with health or allied matters, are subject to veto by the Home Office. See *below*, p. 66.

Scope of
the minis-
try's veto
power.

(b) Other
adminis-
trative
functions.

in the case of certain regular municipal appointments and removals (more particularly those of the medical officer of health and the sanitary inspector), the action of the local authorities must be referred to the ministry for its concurrence.

Let it not be supposed, however, that the Ministry of Health, any more than the Local Government Board which it succeeded, has a direct and positive share in every branch of municipal government. With police, fire protection, education, parks, and such things it has nothing whatever to do—except in so far as its approval is needed for the exercise of borrowing powers. Even as respects water supply, sewerage, waste disposal, public health (and poor relief in the poor-law unions), its function is to supervise and guide; not to initiate or administer. It is intended to be the balance-wheel, not the engine, of local administration. It is not the ministry's function to drive the machinery, but to see that it is driven smoothly by the town council or other local authority.

III. Advisory powers.

Assistance to local authorities.

In a certain sense, however, the Ministry of Health does exercise some measure of initiative in matters relating to water supply, sanitation, public health, and poor relief. For it may at any time and on any of these matters tender its advice to the local authorities. The local authorities, on the other hand, are entitled to seek advice from the ministry and to draw upon the knowledge of its expert staff. This is a privilege of which the officials of the borough freely avail themselves—sometimes after they have gotten themselves into a mess by following their own amateurish ideas. John Stuart Mill once said that "power may be localized, but knowledge should be centralized". He spoke wisely. The Ministry of Health owes more of its influence to knowledge than to power, for knowledge is power in more senses than one.

Its facilities for this work.

In the archives of the ministry there has been accumulated a vast amount of useful data concerning every phase of municipal administration; a wealth of statistical and other information is there on file; and some of the best legal, financial, and engineering skill in England is at hand to interpret it. When the wording of a new statute is not clear to a town clerk; when a borough treasurer gets his accounts tangled or gets into a controversy with his auditors; when the finance committee of the town council is at a loss to know how it should proceed in the matter of get-

ting a loan; when the councillors are perplexed as to the best type of water-filtration plant for their borough or the most economical method of incinerating garbage,—in a word, when an English city wants expert advice without paying for it, the first and best recourse is to Whitehall. There is probably more technical skill and experience in relation to municipal affairs concentrated in these offices than can be found under a single roof anywhere else in the world. The Ministry of Health is, in effect, a bureau of municipal research maintained at the public expense and giving its services free to any borough, urban district, rural district, poor-law union, or parish that asks for advice or assistance.

Not only does the ministry give assistance to the local authorities but it advises Parliament on all important proposals that are laid before that body in relation to poor relief, health, sanitation, housing, water supply, and municipal borrowing. All general measures relating to these subjects are introduced by the Minister of Health after they have been carefully worked over by his staff. No such public bill would be passed by Parliament in opposition to the ministry's wishes. Nor is this all. As has already been pointed out in connection with the subject of private bill procedure, the opinion of the ministry on every private bill within its field is transmitted to the committee which is considering the bill. If the ministry has a criticism to offer in connection with any provision of a private bill, it includes such criticism in its report. The committee on private bills may recommend and Parliament may even enact a provision which is strongly objected to by the Ministry of Health, but that is not the usual course. Both the committees and the two Houses of Parliament give a great deal of weight to any objection which the Ministry of Health may raise. This work of the ministry in scrutinizing private bills is important, for not only does it serve as a restraining influence upon those local authorities who are rather too ready in seeking special powers by private bill, but it enforces greater care and circumspection upon those who present such bills.

Advice to
Parliament:

(a) on
public and
private
bills.

There is still another way in which the Ministry of Health renders service to Parliament. Whenever any select committee or any royal commission is appointed to study some phase of municipal administration it is able to draw upon the Ministry

(b) in special investigations.

of Health for virtually all the data that it needs. It may also, and always does, call upon the experts of the ministry for their testimony and opinions. Within recent years, for example, elaborate investigations have been made by two royal commissions; one on local government and one on London government. In both cases much useful data and evidence were secured from the officers of the Ministry of Health.¹

The hearing of appeals.

The Ministry of Health, again, serves as an appellate body for the hearing of protests made by individuals against the decisions of the local authorities. For example, when the latter order the closing of houses as unfit for habitation, or when they require additional sanitary facilities to be installed, or when they make certain charges for street work, the aggrieved owner may appeal to the ministry, which orders a local inquiry to be held and gives its decision in accordance with the facts as adduced at this inquiry.

IV. Financial powers:

(a) the approval of loans.

In addition to its functions of issuing orders, vetoing bylaws, approving regulations, giving advice, and settling local grievances, the Ministry of Health has various powers of supervision over local finances. So far as the boroughs are concerned its chief duty is that of examining applications for permission to borrow money. Municipal loans require, in almost all cases, the approval of Parliament or of the Ministry of Health. Parliament has granted wide borrowing powers to the English boroughs; much wider, indeed, than those which the various state legislatures in America have seen fit to give their civic authorities.² But it has guarded against local profligacy by providing that, in most cases, the prior consent of some central department must be obtained. When the proposed borrowing is on a large scale, the borough customarily seeks its authority by presenting a private bill to Parliament; but for ordinary routine loans the right to borrow is sought from the Ministry of Health, or the Ministry of Transport, or the Electricity Commissioners, as the

¹ The evidence given by Mr. I. G. Gibbon, Assistant Secretary of the Ministry of Health, before the Royal Commission on Local Government, fills more than 200 printed pages in the Commission's *Minutes of Evidence* (London, 1923). There is more up-to-date material relating to English local government in these volumes of evidence than can be found in any other source.

² See, for example, the Public Health Act of 1875, par. 233; the Electric Lighting Act of 1882; the Public Libraries Act of 1892, par. 19; the Local Government Act of 1894, par. 12; the Housing and Town Planning Acts of 1890-1919; and the Education Act of 1920.

case may be.¹ The Ministry of Health is asked every year to sanction loans for the laying out and paving of highways, the erection of borough buildings, the construction or the extension of the water service, the sewer system, the local markets, hospitals, public baths, and so on. In every case the application for borrowing powers must be accompanied by full data as to the purposes for which the money is required, the estimates of cost, the probable increases in borough revenue that will result from the expenditure, the financial condition of the municipality, and such other information as may be called for by the ministry's regulations. All such returns are carefully gone over by the ministry's financial experts before the application is either granted or refused. If the request be granted, the Ministry of Health usually prescribes the terms under which the loan may be negotiated, including such matters as the rate of interest to be paid, the periods for which the bonds may run, the nature of the sinking fund to be provided for the repayment of the loan on expiry, and every other important incident connected with the borrowing project.²

It is through its power to grant or to refuse permission for loans that the Ministry of Health, the Ministry of Transport, and the Electricity Commissioners exert an influence in the field of municipal trading. No borough can embark upon the policy of public ownership without large expenditures, and in the nature of things this money must be raised by the issue of municipal bonds. Upon the readiness or reluctance, therefore, which the central departments display in granting permission to borrow for such purposes depends the progress which municipal trading is able to make, in the smaller boroughs more especially. The big cities can obtain borrowing powers for this purpose by private act of Parliament and so can the smaller ones if they are willing to pay the cost of promoting a private bill; but application to the ministry is a less expensive and more expeditious way. On the whole the central authorities have been favorably disposed towards applications for borrowing powers in relation

Loans for
municipal
trading.

¹ But even when the application for borrowing power is made to the Electricity Commissioners, the Ministry of Health must be consulted before permission is given.

² See the article on "Loans" in the *Encyclopædia of Local Government Law*, IV, 187-245, and in the supplementary volume; also J. H. Burton's *Loans and Borrowing Powers of Local Authorities* (London, 1924).

to the acquisition or construction of public utilities. They have dealt more generously with the municipalities than American state legislatures have usually done in the same connection.

(b) the
auditing of
local
accounts.

The Ministry of Health inherited from the Local Government Board the function of auditing various local accounts. The district auditors who are attached to the ministry go through the books of nearly every local government treasurer in England, giving them a thorough and independent examination, at least once a year. The only important area of local government (outside of London) to which this auditing jurisdiction does not generally apply is the borough, the accounts of which are for the most part examined by local auditors whose work is not subject to revision by any central authority. The work of auditing borough accounts is, in fact, badly divided.¹ Certain accounts, such as those of the education committee, are audited by the district auditors of the ministry. The same is true of some other accounts where grants-in-aid from the national government are concerned; for example, the police and housing accounts. Furthermore a borough may submit all its accounts to the district auditor if it chooses to do so, and about sixty boroughs now do this. But apart from the exceptions above noted the borough accounts are not examined by the district auditors. There are two local borough auditors, one appointed by the mayor and one elected by the voters. In addition it is customary for the larger boroughs to maintain an internal audit of departmental accounts.

A suggested
improvement.

It has been suggested that the jurisdiction of the district auditors should be extended to all the borough accounts without exception, thus placing the boroughs on the same audit-basis as the urban districts. No doubt this will be done in the course of time. The district auditor is a man of professional qualifications, with no local interests to fear or favor. His salary is paid from the national treasury, but the local authorities, whose accounts are audited, indirectly pay the cost through the medium of a stamp tax on the auditor's certificates. The extension of the

¹ An excellent summary may be found in John J. Clarke's *Local Government of the United Kingdom* (3rd edition, London, 1925), pp. 140-151. For further details see A. Collins, *The Audit and Organization of Local Government Accounts* (London, 1919), S. Whitehead, *Municipal Audit Programmes* (London, 1922), J. H. McCall, *Municipal Audits and Finance* (London, 1925), and the article on "Accounts and Audit" in the *Encyclopedia of Local Government Law* (vol. i, pp. 1-111).

district auditors' work to all borough accounts would improve borough administration at an important point.

But if the Ministry of Health has not yet been empowered by Parliament to audit all the accounts of borough treasurers, it has been authorized to exact from them full and accurate returns of all expenditures. Every year the town clerks of the boroughs are required to transmit detailed statements of municipal revenues and disbursements as prescribed by the ministry.¹ These figures are of great value, for although the ministry may not disallow any item of ordinary expenditure made by the borough, it may call attention to things which it considers illegal, or it may notify a borough that it is paying excessively for some service as compared with other places. The requirement of an annual return, moreover, has forced the municipalities to keep their accounts in a reasonably uniform way. From the data gathered during the year the ministry prepares an annual abstract of local revenues and expenditures which, after it has been laid before Parliament, is printed for public distribution. This return is so concise, comprehensive, and intelligible that it renders the study of English municipal finance a fairly simple task, whereas the comparative study of municipal finances in the various American states is an almost hopeless undertaking.² In America there is no uniform system of municipal accounting. Every city has its own methods and often it makes no annual return to anybody. It prints an "annual report" which in most cases is a mere transcript of figures from the treasurer's books.

For the performance of these varied functions the Ministry of Health requires a large staff of officials. The total number runs into the hundreds, including the minister's immediate advisers and assistants, engineers, medical officers, inspectors of poor-law institutions, district auditors, assistant auditors and

Returns
from local
authorities.

The
ministry's
staff.

¹In this connection it may be well to mention the volume by A. C. Roberts on *Accounts of Local Authorities* (London, 1920), which was written with the sanction of the Ministry of Health and explains the general requirements.

²It is only fair to say, however, that the Bureau of the Census, in its carefully prepared *Financial Statistics of (American) Cities Having Populations Over 30,000* (issued annually), has performed a great service in the matter of rendering the finances of the various American municipalities more readily comparable. A few of the states also issue annual publications with summaries of municipal finance; for example, the *Statistics of Municipal Finance* which have been annually issued in Massachusetts since June, 1906.

so forth.¹ All these officials are appointed by the crown on recommendation of the minister; they hold office during good behavior and efficiency; they are members of the national civil service, and receive liberal remuneration. Being members of the civil service they are secure in the tenure of their posts and have no local interests to look out for. They are able to go about their work in an impartial way, with a complete disregard of local politics. Nevertheless this central supervision is certainly not popular with the local authorities and many of them would welcome some relief from it. If the supervision were tinged with political motives it would speedily break down. Integrity and nonpartisanship are what keep it from being more vigorously assailed. Englishmen would not long tolerate the supervision of their local government by national busybodies who, like the French prefects, try to combine the functions of an administrator with the activities of a political boss.

A second organ of central control is the Board of Trade. It has several members but its functions are performed by its president alone.² The board, as a board, never meets, but periodical conferences are held between the president of the board and the higher officials of his staff. The president is a member of the cabinet and his title ought to be Minister of Trade. But he does all things in the name of his board and thus perpetuates one of the numerous anomalies of English government.

The principal duties of the Board of Trade are to gather and publish commercial information, to assist the trade and industry of Great Britain, and to enforce certain statutes relating to commerce and manufacture. It also has to do with the supervision of the British mercantile marine and with such matters as lighthouses and pilotage. Most of its functions, accordingly, have little or no relation to local government. But there is one of the board's departments which comes into frequent and intimate contact with the local authorities; namely, the depart-

The
Board of
Trade.

Its
functions.

¹The ministry is also assisted by four consultative councils, the members of which are appointed by the minister and whose duties are to give advice on (a) medical service, (b) national health insurance, (c) local health administration, and (d) general health problems.

²Nominally it is an executive board of the Privy Council and consists of eleven members; namely, the President of the Board of Trade, the Principal Secretaries of State for Foreign Affairs, for War, for Scotland, for India, and for the Colonies, the Home Secretary, the First Lord of the Treasury, the Chancellor of the Exchequer, the Speaker of the House of Commons, and the Archbishop of Canterbury.

ment of power, transport, and economics. It has to do with the development of power facilities, including water power and electrical energy. When, therefore, a municipality proposes to undertake any scheme of power development it must deal with the Board of Trade. The Board of Trade also has general supervision over local gas supplies, whether undertaken by the public authorities or by private companies. It also controls the inspection of weights and measures.

The division of supervisory functions in this field between the Board of Trade and the Ministry of Transport (which includes the Electricity Commissioners) is not easy to make clear, nor is it necessary to go into the details of their respective jurisdictions here. The Ministry of Transport is a new central department established in 1919. To it were transferred all the powers and duties of existing departments with reference to railroads, street railways, canals and other inland waterways, roads, bridges, ferries, harbors, docks, and piers. In addition the ministry was authorized to set up electricity commissioners, not exceeding five in number, with the duty of assisting small municipalities to group themselves into electricity districts with joint boards of management (joint electricity authorities, they are called). The Electricity Commissioners are empowered to grant orders, when sanctioned by the ministry, and to approve applications to borrow money on the credit of the district concerned.¹ The accounts of the joint electricity authorities are subject to audit under the supervision of the commissioners, but to avoid duplication the auditing is actually done by the district auditors of the Ministry of Health.

The Ministry of Transport and the Electricity Commissioners.

When a town council desires to borrow money on the credit of the borough for the purchase, construction, or extension of local street railways, electric lighting facilities (other than power plants), ferries, docks, or piers, it submits a scheme to the Ministry of Transport.² This scheme must set forth full information concerning the project in all its bearings. A local inquiry is then held, after which the ministry (or the Electricity Commissioners) may approve the scheme and authorize the necessary borrowing. If the project is a very extensive one, however, the

¹ As already mentioned, however, the Ministry of Health must be consulted.

² In the case of electricity developments the application goes directly to the Electricity Commissioners, who function within the department.

borough may prefer to obtain this approval and authority directly from Parliament by promoting a private bill. In the matter of highway construction the plans are approved by the Ministry of Transport, but approval of the borrowing must be had from the Ministry of Health.¹

The Home
Office.

Another important organ of central supervision is the Home Office, the chief officer of which is the Home Secretary, likewise a member of the cabinet.² Its functions are derived from a miscellaneous series of statutes ranging over a long period of time and having little in common save the fact that they are all more or less connected with law and order. These statutes relate, among other things, to prisons, pardons, aliens, the liquor traffic, juvenile courts, public morals, police, naturalization, registration of voters and the conduct of elections, and the inspection of factories and mines. The last named function has developed during recent years into one of the most important. The Home Office is brought into contact with the borough authorities of England chiefly through its power of supervising the local police. With respect to Greater London, the authority of the Home Office in this field is comprehensive and direct, for the metropolitan police system comes immediately under the Home Secretary's control.³ But with respect to the police administration of the other English cities, the jurisdiction of the Home Office is supervisory only; the direct control being here vested in a statutory body, the watch committee of the borough council.

Relation
of the
Home
Office to
municipal
police.

The watch committee is chosen in each borough by the town council from the ranks of its own members.⁴ Subject to the regulations of the Home Office it determines the size of the local police force, appoints the chief constable, frames the rules for the discipline of the force, and controls every other incident of immediate administration. By statute the watch committee has independent powers and its actions in most cases do not need to be ratified by the town council as a whole, but in practice this committee reports its proceedings at the regular council meetings. In any event the local police authorities are subject to a con-

¹ The work of approving the plans is performed by the Road Department, within the Ministry of Transport.

² The organization, procedure, and functions of this central department are fully described in Sir Edward Troup's recent volume on *The Home Office* (London, 1925). The author is permanent under-secretary of the Home Office.

³ See *below*, p. 189.

⁴ See *below*, p. 157.

siderable degree of Home Office supervision because the national laws provide that a share in the cost of maintaining borough police is defrayed from the British treasury whenever it appears that the police establishment has been "maintained in a state of efficiency in point of numbers and discipline."¹ It is to this provision for a grant-in-aid that the Home Office owes its power of police inspection. It can insist that borough police establishments be "maintained in a state of efficiency" upon pain of having the national subsidy diminished or withheld, and it may make various regulations, but the immediate control of borough police is in the hands of the watch committee as has been said.

The work of inspecting the local police on behalf of the Home Office is performed by officials known as "inspectors of constabulary". It is their duty to make period visits to the various boroughs and other police areas of the country. On the occasion of these visits they make a more or less comprehensive inspection of the local police establishments and report to the Home Office. If the report is satisfactory, the borough receives from the national government a subvention or grant-in-aid which amounts to about one half of the local police expenditure for the year.² If the report is unfavorable, this subvention may be withheld or suspended until the local authorities have brought their police force up to the required standard. The inspectors have no right to order any changes made in the personnel of the force or to remove any borough police official; their business is merely to inspect and report the results of their inspection.³

Until 1919 the inspection was rather perfunctory, and except where a local police system was utterly inadequate it was never reported as unsatisfactory. Occasionally, when the inspector found conditions very bad, the Home Office sent an admonition to the watch committee, and in a few instances it went so far as to threaten that the national subsidy would be withheld unless things were improved. But in no case was a borough actually deprived of its annual police grant. The penalty would have

The "inspectors of the constabulary".

Their work prior to 1919.

The stiffening of central control over municipal police.

¹ The County and Borough Police Act of 1856 and amending acts, notably the Police Act of 1919 and the Police Pensions Act of 1921.

² Further details may be found in Raymond Fosdick's *European Police Systems* (New York, 1915), pp. 48-51.

³ These reports are printed annually under the title, "Reports of Inspectors of Constabulary,—Counties and Boroughs". An interesting discussion of the subject may be had in the article on "Police" by H. B. Simpson, in the *Encyclopædia of Local Government Law*, V, 146-177.

been too severe for the offence and its imposition upon any borough would probably have stirred up a ruction in Parliament. The boroughs grew to look upon the police subsidy as a right, and not as a reward for local efficiency.

Then came the police strikes of 1919 and the Police Act of the same year. This enactment considerably strengthened the supervisory powers of the Home Office. It authorized the latter to frame regulations as to the organization, pay, clothing, pensions, and housing of municipal police, and it is now the function of the inspectors to see that these regulations are carried out. They must report specifically on each feature of local police administration. The Home Office, moreover, is now empowered to withhold *a part* of the national subvention, thus imposing a penalty which can be adjusted to fit the circumstances.¹

This system of central police inspection is a compromise between direct central control, such as exists in the larger cities of continental Europe, and no central supervision at all, as in the great majority of American cities. A system of complete state control would not be tolerated in England; on the other hand the majority of Englishmen feel that if the national government bears half the cost it should be permitted to see that its own money is properly spent. It is desirable, in the national interest, that borough police administration shall be reasonably efficient, and to this end the British treasury has shown itself ready to contribute. But if any borough prefers to have an inefficient police system, and thus to lose a part of this contribution, there is no way of hindering it. It is obvious, however, that if any watch committee, through its negligence, parsimony, or loose methods, should cause even a portion of this national subvention to be withdrawn, the wrath of the local ratepayers would descend upon its head. It is cheaper to maintain a good police system with the national treasury bearing half the cost than to have a poor one with the whole cost falling on the local tax rate.

This police subvention is a source of heavy expense to the British treasury. The total sum paid to all the local authorities amounts to several million pounds per annum. Every year,

¹ The Home Office is also empowered to arrange for the holding of Police Councils, made up of representatives of watch committees, delegates from the Police Federation (see *below*, p. 159), police superintendents, etc., for the consideration of general questions affecting the police.

Results
of the
English
system.

The bur-
den on the
national
treasury.

moreover, with the steady growth of large cities and the increase in the size and expensiveness of municipal police forces, the total grows larger; and this in the face of inexorable demands upon the national exchequer for interest on the war debt, old age pensions, unemployment insurance, and so forth. Many Englishmen believe that every municipality should bear the entire cost of its local police, as all cities (except Washington, D. C.) do in the United States. As a result of the national subsidy, the police systems of English cities have undoubtedly been helped to a better standard, especially during the interval since the Act of 1919 went into force. On the other hand, there is no disguising the fact that the present powers of the Home Office, although cleverly sugar-coated for the mollification of home rule enthusiasts, afford a potential form of direct administrative compulsion. Who holds the purse holds the power, and the Home Office now holds half of it.

Two other organs of central government which come into contact with local authorities in a supervisory way are the Ministry of Agriculture and Fisheries and the Board of Education.¹ The first-named exercises sundry powers of supervision over the work of municipal officials so far as concerns the prevention of epidemics among animals, the management of markets and fairs, the inspection of food and drugs, the destruction of insects, the preservation of local fisheries, and so forth. It has power to enforce the provisions of various acts of Parliament relating to such matters and to this end may issue orders to local authorities. It maintains its staff of expert officials and in all matters that come within its own particular sphere its counsel and advice are at the disposal of the borough authorities.

The Board of Education has charge of school inspection and of the distribution of the grants-in-aid which the national government annually pays to the municipalities for the support of secondary education. Through its officials it inspects all schools that receive public funds, approves plans for school buildings, and prescribes the general curriculum; but it has no right to interfere directly in the work of immediate school administration. All that it can do in this direction is to come into general super-

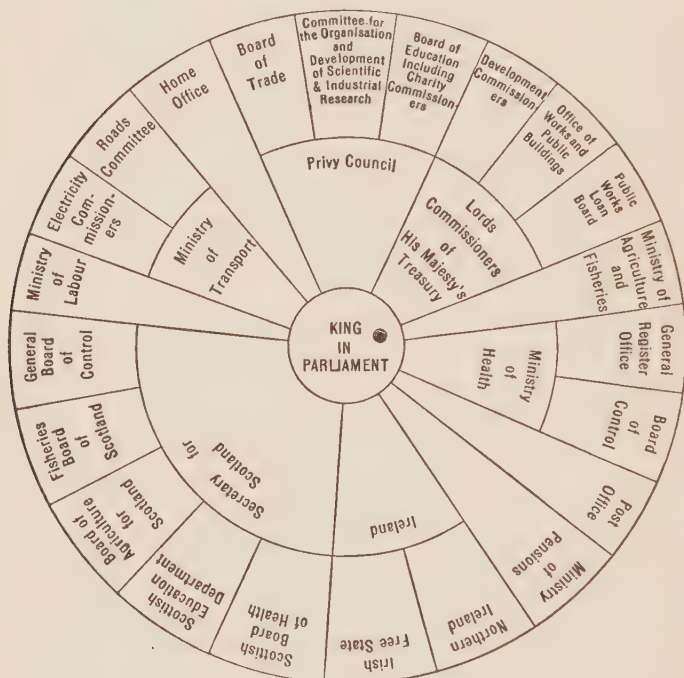
Other
organs of
central
super-
vision :

(a) The
Ministry
of Agricul-
ture and
Fisheries.

(b) The
Board of
Education.

¹ The Board of Education, like the Board of Trade, is an ex-officio body with the exception of its president. The latter, who is a member of the cabinet, exercises the powers in the board's name.

visory contact with the education committee of the council, which in every borough has immediate control of the local schools. If, however, the local education authority fails to fulfil any of its duties under the statutes, the Board of Education, after public inquiry, may issue an order compelling such work to be performed. Loans for the erection of school buildings are



approved by the Ministry of Health which also audits the accounts of all local education authorities.¹

The growth of central supervision has been facilitated in Eng-

¹ These various organs of central control, namely, the Ministry of Health, the Board of Trade, the Ministry of Transport, the Home Office, the Board of Agriculture and Fisheries, and the Board of Education do not exhaust the list. The Treasury, through the Public Works Loan Board, the Development Commissioners, and the Office of Works, comes into frequent contact with the boroughs. The Ministry of Pensions, the Ministry of Labor, and even the Post Office Department deal with municipal matters at times. The diversification of the contact between the national and local authorities is shown by the above chart which is reprinted by permission from John J. Clarke's *Local Government of the United Kingdom* (3rd edition, London, 1925), p. 442.

land by the practice of making grants from the national treasury to the local authorities, or grants-in-aid, as they are called. English writers have sometimes asserted that this is a device peculiar to their own administration, but such is not the case. Subventions from the national government to the states, and from the states to the municipalities (for education, roadmaking, vocational training, etc.) are quite common in America and have been, to some extent, for a great many years.¹ In England the whole development has taken place since 1832 and more especially during the past fifty years.² A grant-in-aid is a sum of money paid from the national exchequer to a local governing authority in order to assist the latter in carrying out some of its regular functions. It may be a single payment, but more often it is a yearly subvention. Sometimes the laws provide that it shall be paid under all and any conditions; sometimes they stipulate (as in the case of the police grant) that it shall be paid when a central department decides that certain conditions have been fulfilled. In amount it may be fixed or variable. Fifty years ago the total of these grants-in-aid amounted to about three million pounds per annum; today they total about seventy-five millions. The county boroughs are now receiving, on the average, about thirty-three per cent of their revenue from this source and the ordinary boroughs about twenty-six per cent.

Central supervision and the policy of grants-in-aid.

¹ Even so distinguished a student as Mr. Sidney Webb, for example (in his *Grants-in-Aid*, new edition, London, 1920), says that "the grant-in-aid is a device peculiar to English administration" (p. 1) and that "in the United States, where the cities and townships are, broadly speaking, autonomous corporations, not in the least subordinate to the state or federal executive departments and standing even to the legislatures in no more intimate or subordinate a relation than the government departments themselves . . . it has been said with some exaggeration but with more truth than patriotic Americans usually realize, to have given the United States, at least in many great areas, the worst local government of any country claiming to be civilized" (pp. 21-25).

Wholly apart from the inaccurate statement that the grant-in-aid is a "device peculiar to English administration," one may take issue with Mr. Webb on two other points. In the first place, the United States, even in the great urban centers, does not maintain "the worst local government of any country claiming to be civilized". This allegation may have been justified forty years ago; it is not in the least justified today. In the second place, whatever misgovernment the American municipality has endured is attributable in no sense to the fact that American cities are "autonomous corporations", for they do not possess any such status. There has been too much state interference in the affairs of American cities, not too little of it.

² The development is set forth at length in J. Watson Grice, *National and Local Finance* (London, 1910).

Complica-
tions of
the
system.

Grants-in-aid are made for a variety of purposes, including local education, police, street construction, health, housing, and poor relief. They are also made under a variety of conditions, but in general every grant brings with it some added degree of central supervision over the local service affected. In a word, the national government has simply been "buying" from the local authorities a right to inspect, supervise, audit, criticise, or control one local service after another until it has consolidated a vast amount of power into its own hands. By this arrangement, says Mr. Sidney Webb, "we have, in the United Kingdom, devised a new kind of relation between local and central government, and created a new species of administrative hierarchy . . . which produces results in a remarkable combination of liberty and efficiency, on the whole preferable to the achievements of either the bureaucratic system of France or Germany, or the American anarchy of local autonomy".¹ Yet the same author adds, in the next breath, that the giving of these grants for all sorts of subjects, in differing proportions and under all sorts of conditions, has led to "a chaos which practically no one understands, certainly no ordinary member of a local authority". "I have neither space nor patience", he says, "to set forth even a tithe of the complications and absurdities that have grown up under it".

Its effec-
tiveness as
a weapon
of control.

But whatever the merits or defects of the system, one thing at least is clear; namely, that the making of a grant-in-aid is the most effective contrivance for the rapid development of centralization that the ingenuity of man has thus far devised. First of all come the Greeks bearing gifts. Then, in their wake, come the inspectors and auditors to see that the gifts are being properly used. After the inspections and audits come the reports and the recommendations. Presently the recommendations assume the form of orders, to be obeyed under penalty of having the subsidy withheld. That, in brief, is the story of national subsidies to local government, always and everywhere.

Perma-
nence
of the
system.

Once inaugurate a system of grants-in-aid, moreover, and there is little chance of abandoning it. England is now without any practicable alternative but to continue the system, for a discontinuance of the subsidies would entail a general rise in local tax rates. Such a shifting from national taxes to local rates

¹ *Grants-in-Aid* (new edition, London, 1920), p. 6.

would inspire a nation-wide protest which even the strongest ministry would hesitate to face. So there is every incentive to extend and enlarge the grants, but no incentive to retrench them. More grants-in-aid mean more administrative machinery in the various central departments, more bureaux, boards, and chiefs of divisions, more administrative tinkers roaming over the face of the land. Pursued to its logical conclusion the system would mean the extinction of local autonomy—but the English are not logical in politics and that may prove to be their salvation.

If the activities and influence of all these various central departments be considered together, it will be apparent that England has made considerable progress in the direction of administrative centralization. Nevertheless there is even yet a much smaller measure of central supervision over local government in England than in the various countries of the continent. The English plan is not a *system* of central supervision at all. It has too little cohesion and symmetry to be called a system. It is something that has grown by accretion, unplanned and unguided. To the various central departments Parliament has merely doled out authority in small helpings. It has kept power well scattered, intentionally so. Among the English central departments there is nothing that corresponds in power and influence to the French Ministry of the Interior. There are no prefects or sub-prefects in England. It may be true, as sometimes alleged, that most of the power which the prefects exercise in France or in Italy is just as truly exercised by officials of the national government in England,—the difference being that in England the whole process is so diffused, unsystematized, and intricate that the amount of centralization is concealed from the naked eye. This allegation is hardly justified, yet it is undeniable that the gap between England and France as regards municipal home rule is being steadily and rapidly narrowed.

The Anglo-Saxon does not dislike the actuality of having his local government supervised so much as he disdains the open avowal of it. Tell him that he is not competent to manage the affairs of his own community without supervision at the hands of some higher authority and he will resent it; he will remind you that both the principle and the practice of local self-government are the heritage of his race, and will assert with an air of finality that free municipal institutions are the bulwarks of

English
and Conti-
nental
methods
of central
control
compared.

national liberty. But argue with him that in matters of local government he ought to have assistance, guidance, grants-in-aid, provisional orders, and so forth from the central authorities, to the end that his work shall be better done, and he will usually concur with you. To his mind there is a world of difference between guidance and supervision, between inspection and control, between prefects and district auditors.

With words we govern men. It is the formula that counts. "Let us find a formula", Lloyd George was in the habit of saying whenever the Council of Four got itself deadlocked during the peace negotiations in Paris. Englishmen are not alone in their willingness to be lulled by a verbal bromide. In America there are cities whose people fairly bristle with wrath when the state legislature interferes with the management of their municipal affairs, thus violating the blessed rule of municipal self-determinism. But these same citizens will meekly listen to the raucous voice of a state boss telling their city officials what to do! They will tolerate no end of interference in their local affairs by the party organizations of the state or the nation. Everything depends upon the point of view, which in turn is affected by nomenclature. People look at the facts with their prejudices, not with their eyes. Centralization is everywhere an odious term. But call it helpful supervision, or maintenance of standards, or a system of grants-in-aid,—and the thing becomes far less acrid to the freeman's palate. It is very true, as Disraeli once said, that "with words we govern men".

Central control there must be to some extent in all countries. Its complete absence, under modern conditions, is unthinkable. It would spell chaos. There are no longer many affairs of "local importance". There is no local problem, whether it be that of maintaining law and order, protecting the public health, providing public recreation, or even raising taxes, that does not have its national implications. There is not one of them that can be effectively solved without the coöperation of the higher authorities. No vision of a better city can be framed which excludes from its range a nation truly one and indivisible.

Central control of local government in England has been adroitly disguised, yet not to such a degree as to be unrecognizable. There are those who, apprehending its true extent, call for halt in its progress. The Labor Party, in its declarations

The
phrase
and
the facts.

Labor's
demand
for
decentrali-
zation in
England.

and manifestoes, has strongly demanded that a policy of decentralization be inaugurated. "We are alive to the evils of centralization and the drawbacks of the bureaucracy", declared its 1918 program. To counteract these disadvantages the Labor Party urges that the fullest possible scope be given, in all branches of social reconstruction, to the democratically-elected local governing bodies. It holds that while the central departments should assist with information and grants-in-aid, the local authorities ought to be given a free hand to develop their own services, over and above the prescribed national minimum, in whatever way they choose; that they should be empowered to obtain capital from the government at cost price and to acquire land cheaply and expeditiously for any of the functions with which they are entrusted. The Labor Party holds, moreover, that the municipalities and county councils "should not confine themselves to the necessarily costly services of education, sanitation, and police . . . nor yet rest content with acquiring control of the local water, gas, electricity, and tramways; but that they should greatly extend their enterprises in housing and town planning, parks and public libraries, the provision of music and the organization of public recreation, and also that they should be empowered to undertake not only the retailing of coal but also other services of common utility, particularly the local supply of milk".

As a declaration of ideals and principles the foregoing will not evoke much dissent, but the carrying of any such plan into actual operation would be a very difficult matter. Almost forty years ago Parliament empowered the then-existing Local Government Board to transfer by provisional order to the county councils a number of supervisory powers vested in the central departments, subject to the approval of the department affected.¹ Shortly thereafter the Local Government Board issued a provisional order transferring to the county councils a number of powers which hitherto had rested in its own hands, in those of the Board of Trade, and in the Home Office. But when this provisional order came before Parliament for confirmation, the non-county boroughs came forward and offered a practically unanimous opposition. They preferred, they said, to be supervised by Whitehall rather than by a county council, even though the lat-

The
difficulties
involved.

¹The Local Government Act of 1888, Section 10.

ter was a local body with its members locally elected. So confirmation of the provisional order was refused by Parliament. Fourteen years later (1903), Parliament provided that the Local Government Board might transfer the supervising powers of a central department to a county borough council in individual instances, but no application has ever been made for a transfer under this provision.¹

The
devolution
movement.

On various occasions during the past thirty years schemes of devolution have been brought forth and considered. In 1898 the County Councils Association proposed a plan whereby a long list of powers should be devolved upon the county councils in cases where non-county boroughs should ask to have this done.² But nothing came of the plan. Meanwhile the idea gained prevalence that the principle of devolution should be applied not only to the administrative but to the legislative branch of British government; that there should be some decentralization in the functions of Parliament itself. In 1919, accordingly, the House of Commons, after a full debate on the general question, passed the following resolution:

"That, with a view to enabling the Imperial Parliament to devote more attention to the general interests of the United Kingdom, and, in collaboration with the other governments of the Empire, to matters of common imperial concern, this House is of the opinion that the time has come for the creation of subordinate legislatures within the United Kingdom, and that to this end the government, without prejudice to any proposals it may have to make with regard to Ireland, should forthwith appoint a parliamentary body to consider and report: (1) upon a measure of federal devolution applicable to England, Scotland, and Ireland, defined in its general outlines by existing differences in law and administration between the three countries; (2) upon the extent to which these differences are applicable to Welsh conditions and requirements; and (3) upon the financial aspects and requirements of the measure."

The
Conference
of
1920 and
its two
plans.

Accordingly a parliamentary body of thirty-two members, known as the Devolution Conference, was appointed and in 1920 this conference presented two schemes. The first, known as the Speaker's Transitional Plan, proposed that subordinate leg-

¹ The Local Government Board (Transfer of Powers) Act, 1903.

² This scheme is printed in Appendix xix of the *Minutes of Evidence Taken before the Royal Commission on Local Government* (London, 1923), Part I.

islatures be created for England, Scotland, and Wales (including Monmouthshire).¹ It suggested, but did not definitely propose, that there ought to be more than one subordinate legislature for England. These local legislatures (or grand councils) were to have two chambers—a Council of Commons and a Council of Peers. The former was to be made up of members of the House of Commons representing constituencies in the area, the latter of selected members of the House of Lords. Thus there were to be no special elections distinct from parliamentary elections. The subordinate legislatures were to be constituted ex-officio. They were to sit in London or elsewhere as they preferred, but they were not to hold meetings while Parliament was in session except by special permission of the Home Secretary. The conference recommended that the subordinate legislatures, or regional grand councils, should be vested by Parliament with a long list of powers, including the right to make laws relating to markets and fairs, licensing, charters, police (other than the metropolitan police of London), poor relief, prisons, burials, sanitation, education (both primary and secondary), counties and boroughs, fire protection, public health, hospitals, housing, municipal government (including the qualifications for voting at municipal elections), and finally the consideration of all private bills including those having to do with water supply, gas, and electrical undertakings. Provision was made by the conference for regional administrative authorities in the form of an executive committee for each grand council, the members of which with the exception of the chairman should serve as heads of administrative departments—in other words, it proposed that each area should virtually have its own prime minister and ministry.

The second plan, known as Mr. Murray MacDonald's scheme, was endorsed by about half the members of the conference. It differed mainly in proposing regional legislatures preferably of a single chamber, with members separately elected from the existing parliamentary constituencies. In general the MacDonald scheme contemplated the same list of devolved powers and the same type of administrative organization.²

¹ By the time the conference finished its work the matter of a separate parliament for Ireland had taken shape in the Government of Ireland Bill.

² For the details of both schemes, with discussions and criticisms, see the parliamentary paper entitled *Conference on Devolution* (London, 1920), listed as Cmd. 692.

Future
of the
question.

Now it is clear that the adoption of any such plan as either of those recommended by the Devolution Conference of 1920 would greatly alter the existing system of centralized supervision over local government, particularly if its adoption were followed by the establishment of two or more subordinate legislatures or grand councils for England. But like the various other devolution proposals, these alternative schemes led to no specific action. They formed the theme of a lively discussion in the newspapers for a time and then dropped out of the public interest.

If the Labor Party gains a clear majority in the House of Commons there will probably be some changes in the existing system of central control. Not only that but there will inevitably be alterations in the powers and organization of the local authorities. It is impossible to predict just what these changes are likely to be, in the event of a Labor victory at the polls, because the Labor Party is not itself united on any program of municipal reform.¹

¹Those who desire to study the Labor attitude towards British local administration may be referred to the chapter on "The Reorganization of Local Government" in Sidney and Beatrice Webb's *Constitution for the Socialist Commonwealth of Great Britain*, G. D. H. Cole's *Future of Local Government* (London, 1921), Harold J. Laski's *Grammar of Politics* (New Haven, 1925), especially pp. 410-432, and the Labor Party's *Local Government Handbook* (London, 1924).

CHAPTER IV

MUNICIPAL SUFFRAGE AND ELECTIONS

By the Municipal Corporations Consolidation Act of 1882 the municipal corporation is defined as "the body corporate constituted by the incorporation of the inhabitants of a borough". These inhabitants, prior to 1918, were officially known as "burgesses", and were the successors of the ancient freemen of the town; but the Representation of the People Act bestowed upon them the less picturesque appellation of "local government electors". The old burgess-roll, likewise, is now known as the register of local government electors.¹ This register, in American terminology, is the voters' list of the municipality.

The "municipal corporation".

Its personnel.

The history of borough suffrage in England is a long one, too long for narration here. Only the antiquarians are now interested in its earlier stages and enough has been said about that subject in a previous chapter. Suffice it to point out that England differs from most other countries in not having a uniform suffrage for national and local elections. In the United States, for example, if a person is a voter he is qualified to vote at all elections—national, state, and local. We do not speak of presidential voters, congressional voters, and municipal voters. Such a distinction would be possible, of course, under the constitution and the laws, but it has not been made.² The same is true of France and Germany. A voter who is qualified to vote at one election stands qualified for all of them.

No universal and uniform suffrage in England.

But in England this has never been the case. There has always been one set of qualifications for parliamentary voters and

¹ There is also, in each borough, a "freeman's roll", but this list has no relation to the government of the municipality. It contains the names of those who are entitled to a share in certain corporate property and charitable funds which the borough owned prior to 1835. Honorary freemen may also be enrolled or given the "freedom of the city", but this does not make them local government electors or entitle them to a place on the register.

² Save in a very few instances, notably in Rhode Island, where there is a separate voters' list for city council elections.

Different qualifications for voting at national and at municipal elections.

another for municipal voters. The great reform of the suffrage in 1832 did not change this, neither did the various subsequent reform acts from that date to 1918. The Representation of the People Act, in this latter year, dealt with both forms of suffrage and widened both, but continued to keep them separate. The result is a situation that is somewhat confusing even to Englishmen themselves. At certain points the two suffrages (or franchises, as they are called), run close together; at other points they rather widely diverge. But the present arrangements were agreed upon after careful consideration by a conference representing all political parties, and they are likely to stand for some time to come.

How the present suffrage requirements were agreed upon.

The way in which the Act of 1918 was framed throws an interesting sidelight on English parliamentary methods. The extension of the suffrage is a matter that has always stirred up much party bitterness in England. It did so in 1832, in 1867, in 1884. It was more than ever likely to do so on the next occasion because so long a time had passed since the last overhauling, and hence the requirements would have to be radically changed. When the Asquith Ministry brought forward a Franchise Bill in 1912, therefore, everybody seemed to want something different from what was proposed. Both Conservatives and Liberals suggested all manner of amendments. Under the circumstances the ministry deemed it wise to withdraw the bill, and there the matter rested until the war.

The Bill of 1912.

Suspension of the issue during the earlier war years.

During the years of the war it was agreed that no measures of a partisan or controversial character should be pressed, but on the other hand the defects of the existing suffrage laws became more clearly apparent during these years than they had been before. The laws, for example, required that a man should continuously reside in a certain place for twelve months prior to July 15, otherwise he would lose his vote. This was all very well in piping times of peace, but with thousands of men working in shipyards and munition plants away from home, it involved disfranchisement on a gigantic scale. It shut out the man who was helping to win the war and favored the slacker who malingered at home. So, in 1916, the ministry decided to see whether a non-partisan, non-controversial measure could be framed and enacted by mutual consent of all parties in both Houses of Parliament.

To this end the Speaker of the House of Commons was asked to select a body of thirty-two members "representing the various shades of political opinion in Parliament and in the country". He did so, taking five from the House of Lords and twenty-seven from the House of Commons. This body, known as the Speaker's Conference on Electoral Reform, proceeded energetically to its task and after many sittings reported thirty-seven resolutions as the basis of a new franchise law. All but four of these resolutions were agreed upon unanimously. The sittings of the conference were not public, and we do not know what was said behind the closed doors, but the tenor of the resolutions is enough to indicate that unanimity was had, in many cases, by the making of bargains and compromises. Radicals and reactionaries went fifty-fifty on a good many points. At any rate a bill based on the resolutions of the conference was introduced and went through Parliament without much difficulty.

The Speaker's Conference on Electoral Reform, 1916-1917.

By this Representation of the People Act (1918) the parliamentary suffrage extends to all male British subjects over twenty-one years of age who have lived in a constituency or in an adjoining constituency for six months prior to the compilation of the voters' list.¹ Or, if an adult male British subject occupies an office, shop, or other place of business in the constituency, he may be enrolled there even though not an actual resident.² If he be a *resident* in one constituency and an *occupant* in another, he may be enrolled as a voter in both but in no case may he be registered as a voter in more than two constituencies. So much for male voters in parliamentary elections. As for women, they may register as parliamentary voters if they are (a) British subjects (b) over *thirty* years of age, and (c) either occupants of property or wives of occupants.³ A woman over thirty years of age may be enrolled in two constituencies on the same terms as a male voter.

Nature of the present suffrage requirements:

1. In parliamentary elections.

The municipal suffrage differs from this parliamentary franchise in some important respects. By the Act of 1918 the local government electors or voters of a borough include:

2. In local elections.

¹ A "constituency" is a district which elects one or more members to the House of Commons.

² The premises, however, must have a rental value of at least ten pounds per year.

³ The occupied property may be any premises having an annual rental value of five pounds.

1. Every male British subject twenty-one years of age or over who has been for six months an occupant (as owner or tenant) of any land or premises of whatsoever kind or value in the borough, provided, however, that a person who occupies only a furnished room or rooms (as a lodger or at home with his parents) is not deemed to be an occupant under the provisions of the law.¹

2. Every female British subject twenty-one years of age or over who has been for six months the occupant of premises which, if not a dwelling house, must have an annual rental of five pounds or more; and every female British subject, thirty years of age or over, who is the wife of a man who is entitled to be registered in respect of premises in which they both reside.

What
constitutes
occu-
pancy?

The first of the foregoing provisions virtually establishes manhood suffrage in English municipal elections, for although a man must be a "tenant", that requirement is not hard to satisfy. Tenancy is a technical term; it means legal, not physical occupancy. The term has been used in many statutes, hence it has often been construed and interpreted by the courts. An individual may become an occupant or tenant by merely hiring a garage, a boat house, a storeroom, a tennis court, or a garden—not to speak of an apartment, office, shop, or "other building". The English courts have had some embarrassment in trying to decide what is included within the comprehensive phrase "other building". They have held that in order to serve as a qualification for voting the premises must be in some degree adapted to use by man, either for residential, industrial, agricultural, or commercial purposes, and "must possess that degree of durability which is included in the idea of a building".² On one occasion an electioneering agent, for the purpose of qualifying a voter, built a wooden shed, a mere shell in which the "occupant" kept some agricultural implements. But the court held that this was not a "building" within the meaning of the Act. On the other hand, the occupancy, where there is a real building, does not need to include the whole structure. Renting an unfurnished room qualifies an occupant. Renting a furnished room also qualifies him, provided the furniture is rented from someone other than the landlord. Very few adult British subjects are shut out

¹ For a full statement of the rules, see G. P. W. Terry, *The Representation of the People Act, 1918* (London, 1919).

² *Morris v. Harris, Law Reports, 1 Common Pleas* (1865), 155, affirmed in *Duncan v. Jackson* (1906).

by the requirements that they must "occupy" something or other.

The peculiar provisions relating to the qualifying age for women voters in England require a few words of explanation. No woman under thirty years of age is permitted to vote at parliamentary elections. But women over twenty-one years of age are enrolled as local government electors and permitted to vote at municipal elections if they are qualified in their own right as the occupants of property. If qualified in their husbands' right they must be thirty years of age or over. Of course there is no logic in this arrangement. It was adopted as a compromise.

Woman
suffrage.

The reason for the thirty-year provision is to be found in the fact that England lost heavily in man-power during the war. In 1918 it was estimated that the population of the United Kingdom contained thirteen million males and fifteen million females. Under such conditions "equal suffrage" would have given the women voters a distinct predominance. So Parliament endeavored to fix the age limits in such way that the total number of male and female voters would be approximately the same. To do this, the age limit for all women voters in parliamentary elections was fixed at thirty years and the same provision was made in the case of certain women at local elections, namely, those qualifying through their husbands. With the lapse of time, of course, the proportion of the sexes in the population will once more become equalized and a uniform age limit will then be used.

Reason
for the
higher age
limit.

The proportion of registered voters to total population seems to be just about the same, on the average, in English and American cities. In both countries the municipal electorate includes from twenty-five to thirty-five per cent of the people. One might suppose that with straight universal suffrage existing in America the proportion would be higher here; but bear in mind that there are large bodies of unnaturalized aliens in American cities. These go to swell the figures of population, but their names do not appear on the voters' lists. In English cities the proportion of aliens is small. It is an interesting coincidence that the limitations on universal suffrage in English cities and the exclusion of unnaturalized aliens from the voting lists in America just about counterbalance each other.

The pro-
portion of
municipal
voters to
total popu-
lation in
England
and in
America.

How the
register of
voters is
compiled.

The work of compiling the municipal voters' list, or register of local government electors, is now performed by the town clerk, who serves as registration officer in the making of both parliamentary and municipal lists. He is required to make up the register twice a year, in January and July. But unlike the registrars of voters in American cities he does not begin his work by calling upon the qualified citizens to come forward on their own initiative, take an oath, and be enrolled. Neither does he, like the members of the electoral commission in French cities, merely copy the names from a register of the municipal population (*état civil*), for in England there is no perpetual census of that sort.¹ Instead, the English town clerk hires canvassers and sends them from house to house and from shop to shop, seeking whom they may enroll. The city is divided in sections among them; they go into the highways and byways and compel the voters to come in that their lists may be filled. At each dwelling, shop, office, tenement, or "other building", the canvassers inquire as to the citizenship, age, and legal residence of all adult persons whom they find, likewise the names of owners and occupants. This information is written down (but not sworn to by the person giving it); then it is brought back to the town clerk's office where it is checked with the "valuation rolls" which have been compiled by the assessing authorities in such way as to show who the owners and occupants of each piece of property are.

The
Valuation
rolls.

It should be explained, in passing, that "rates" or local taxes in England are customarily levied on the occupant, not on the owner. They are assessed on the rental value of the premises, not on the selling value. The assessors (overseers) estimate what the premises ought fairly to rent for, or (if they can find out) they put down the amount of rent actually paid, and this amount is the basis of the local tax levy on the occupant. So many shillings per pound sterling of rental value—that is the way the rates are fixed in English cities. In general, therefore, the rent of a shop or house is agreed upon between landlord and tenant on the assumption that the occupant pays the taxes.

Who pays
the rates in
England?

There is no injustice to either part in this arrangement, for the amount of rental is adjusted accordingly. If taxes were in all cases paid by the owner, as in the United States, the scale of rentals would be raised to make up the difference. On the

¹ See *below*, p. 301.

other hand, the practice of assessing the rates to the occupier has a beneficial effect upon the community morale. It brings home to every non-owning occupier, in a way that he cannot fail to appreciate, the fact that he and not the landlord is the one who pays the taxes. In American cities it is the tenant who really pays the taxes, although he seldom realizes it. He thinks that the taxes come out of the landlord's pockets, and that is why he chuckles when the tax rate goes up. He would look at the matter of increased taxes somewhat differently if he appreciated the fact that the landlord is only a middleman who passes the increase to the tenants.¹ In England there is no need to argue with a tenant that he, not the landlord, pays the rates. He knows it only too well.

But the policy of collecting property taxes directly from the occupant is not universally followed in England. It is the usual plan, but there are many exceptions. In the case of houses or tenements where the rental value is small,² a provision has been made whereby the local taxes may be "compounded"; that is, levied on the owner and paid by him. This may be done either by agreement between the owner and the occupant or, in some cases, at the discretion of the local authorities. To compensate the owner for his extra trouble in the matter he is allowed a certain discount or commission—it varies from place to place and according to circumstances.³

The
practice
of com-
pounding.

The local authorities look with favor upon the practice of compounding, in the case of small houses and tenements, and they find it profitable to pay the commission or "compounding allowance" just mentioned, because the numerous small sums (often only a few shillings) are bothersome to collect from the tenants at best, and many of the payments are lost to the municipal treasury because the tenants keep moving about and

¹ I am well aware of the economist's contention that rents are fixed by the law of supply and demand, and hence that increases or decreases in the annual tax levy are not in all cases immediately followed by a raising or lowering of rentals. But in the long run and over a term of years the scale of rentals must inevitably adjust itself to the general level of prices, in the determination of which the tax rate is an integral and important factor.

² The present limit is £20 in London. Outside the metropolis it is somewhat less.

³ In some cases it is as low as fifteen per cent, in others as high as fifty per cent—but the latter only in cases where the owner agrees to pay the taxes whether the premises are occupied or not.

cannot be found when the rates become due. Installments become due, as a rule, either quarterly or semi-annually. Within recent years some English cities have tried the experiment of collecting the local taxes from occupiers by means of weekly stamps.

Let us return from this digression, however, to the making of the voters' list. The canvassers having turned in their reports, and the checking finished, a provisional register is made up by the registration officer (town clerk). It is duly posted at the town hall, in the vestibules of churches, and in other public places. Then the registration officer hears any protests that may be made concerning the omissions or inclusion of names. After considering these objections, he makes his decision on the merits of each claim. His ruling in such matters is not final, and an appeal may be taken to the county court or, on any point of law, to the High Court of Justice. A period of three months is allowed for the adjustment of all such contested matters, at the expiration of which time the list is closed and printed. No changes can thereafter be made in it, for any reason whatsoever, until the next semi-annual revision. The same lists are used for both parliamentary and local elections, but after each name there are symbols (usually the letters P. E. or L. G. E.) to indicate the different qualifications. Only those whose names are followed by the latter symbol are permitted to vote at municipal elections.

No one whose name is not on the register of voters is permitted to vote under any circumstances. On the other hand, if a man's name is on the list there is virtually no way of denying him a ballot even though it can be shown that his name was placed on the register by mistake. The wording of the law would seem to give polling officers the right to refuse a ballot to any person whose name had been put on the list without color of right—one who is obviously under twenty-one years of age, for example.¹ But a contrary notion is deep-rooted in England; it is even embalmed in some of the textbooks.² And as a matter

¹ See the provision in the Representation of the People Act, 1918 (Sec. 9, par. 3), which clearly indicates that nothing in the Act (including presumably the provisions relating to the register of voters) shall be held to confer a right to vote on anybody who is subject to any legal incapacity to vote.

² In C. F. G. Masterman's *How England Is Governed* (New York, 1922) it is stated, for example (p. 11), that "if your name is on the list, even if

Revising
the
register
of voters.

Conclu-
siveness of
the
register.

of almost universal practice the polling officers take the register as conclusive and refuse to assume the responsibility of denying a ballot to anyone if his name is there.

Municipal elections take place in England once a year. They are held on the same day in all the boroughs; namely, on the first of November, unless that date happens to fall on a Sunday or a legal holiday, in which case the election is held on the second of November. At this election the voters choose councillors, but do not elect aldermen, or a mayor, or anybody other than the councillors.¹ The number of councillors, as will be explained later, varies with the size of the municipality. The election may be either by wards or at large, for the larger boroughs are divided into wards while the smaller ones are not. In the former the division is made by action of the borough council, but it must be approved by the Ministry of Health, a precaution which aims to prevent the gerrymandering of the wards. Each ward elects three, six, or nine councillors,—that is, one, two, or three councillors for a three year term, at each annual election.² Liverpool, for instance, has thirty-eight wards and one hundred and fourteen councillors; Manchester has thirty wards and ninety councillors. If no division into wards has been made, as is usually the case in the smaller towns, the councillors are elected at large, one third of the whole number being chosen each year.

The
municipal
election.

In general any qualified voter may be elected to the council but in a few cases a voter is not eligible, and some persons are eligible who are not voters. Until 1925 clergymen of all denominations were debarred from candidacy except in the London metropolitan boroughs; but this restriction has now been removed.³ Women voters were also ineligible until 1907 but they may now be chosen and a good many women councillors have been elected in recent years.⁴ Ineligibility attaches to any person who holds a post of profit within the gift of the council and also to any one who has either directly or indirectly a share or

Eligibility
of candi-
dates.

you are not qualified, the officer who is presiding [at the polls] cannot refuse your vote".

¹ The two elective auditors (see *below*, p. 161) are not chosen at this time but at a separate election in March.

² In the great majority of cases each ward has three councillors and elects one every November.

³ Ministers of Religion (Removal of Disqualifications) Act, 1925.

⁴ Qualifications of Women (County and Borough Councils) Act, 1907.

interest in any contract made with the borough authorities.¹ This last rule, however, does not disqualify shareholders in a joint-stock corporation which obtains a municipal contract;² nor does it render ineligible the publisher of a newspaper which prints municipal advertisements, or persons who contract with the municipal council for the sale or lease of land, or for the loan of money. The elective auditors may not be members of the town council nor may the borough recorder (local magistrate). A councillor who is already in office may become disqualified by non-residence, or by being declared bankrupt, or by being convicted of certain offences, notably under the laws relating to corrupt and illegal practices at elections.

Non-resi-
dent
candidates.

On the other hand, some persons who are not qualified as municipal voters are permitted to become candidates for the council and to hold office if duly elected. Property owners in the borough are eligible no matter where they reside. Residents of the borough are eligible, even though they are not enrolled on the voting register. Persons who are not voters in the borough sometimes become candidates and are occasionally elected, but such instances are exceptional. On the other hand, it is quite common for a councillor to be elected in one ward of an English city although enrolled as a voter in some other ward. The American emphasis on residence within the ward as a practical (if not a legal) requirement for successful candidacy does not exist in England. Englishmen, like Americans, prefer a neighbor to a stranger, if other things are equal or about equal. This is true of parliamentary and municipal elections alike. But Englishmen, unlike Americans, are not willing to vote for a second-rate neighbor in preference to a first-rate candidate who happens to live in an adjoining ward or in another constituency. The downtown wards of English cities display no hesitation in choosing councillors who live and vote in the suburbs. Among the 114 councillors in Liverpool (1925), for example, no fewer than forty live outside the wards which they represent, that is, more than a third of the entire council.

¹ Municipal Corporations Consolidation Act, sections 11-12. See also *Rogers on Elections*, vol. iii, pp. 1-30.

² In a recent case (*Lapish v. Braithwaite*) the House of Lords decided that a member of a borough council is not disqualified even though he be a managing director of a company which makes a contract with the municipality.

How are candidates for the city council nominated in England? The English municipal system makes no provision for the holding of a caucus, convention, primary, or any other gathering of partisans on the eve of an election. Party organizations, as such, are not recognized by law as having any official share in the making of municipal nominations. The statutes relating to municipal elections merely ignore party organizations and party workers altogether, treating them as though such things did not exist. Englishmen find it hard to understand what we mean by closed primaries, party tickets, ballots with party symbols, and similar expressions, all of which point to an avowed recognition of the party system in American municipal campaigns.

How candidates are nominated.

In England a candidate for election to the town council merely files a nomination paper. This document, which must be deposited with the town clerk at least seven days before the polling, gives the candidate's full name, place of residence, and occupation; it must also bear the names of at least ten qualified voters of the borough or ward in which the nominee seeks election. A voter may sign as many nomination papers as there are posts to be filled, and no more. If he signs more, his signature becomes invalid on those which are presented latest to the town clerk. The consent of the candidate is not required, unless he is absent from the kingdom at the time the nomination is made; but a candidate may (if more nominations have been made than there are places to be filled) withdraw his name by written notice to the town clerk within a certain prescribed time after his nomination paper has been filed. Each candidate must be nominated by a separate nomination paper; the papers are supplied by the town clerk, and must be actually returned to him; they cannot be sent by mail. All these requirements are rigidly insisted upon.

Nomination papers.

When the time for receiving nomination papers has expired, the mayor is called upon by the town clerk to pass on the validity of such papers as have been filed, and he must do this within three days. If he decides that a nomination paper has been presented in due form, there is no appeal from his ruling; but if, on the other hand, he declares against it, an appeal may be taken to the courts. In either case the list of valid nominations is duly posted, with no reference to the political affiliations

The mayor determines the validity of nomination papers.

of any candidate, and the polling takes place on the date assigned.¹

No multi-
plication of
candidates.

One might think that this simple method of making nominations would bring numerous candidates into the field. As a matter of fact, the number of names that go on the ballot is usually small and rarely exceeds two or three where there is only one councillor to be elected. A dozen nomination papers are sometimes handed in for a single vacancy, but before the ballots are sent to the printer most of the nominees go to the town clerk and ask that their names be withdrawn.. A man's friends sometimes fill a paper for him as an implied compliment, without his knowledge and without asking his permission. Municipal experience in England certainly does not seem to show that an easy method of nomination serves to multiply candidates, for the number of names that actually go on the ballot under the English system is much smaller than in American cities where more extensive formalities are required. Even in the larger English cities it frequently happens that elections in many of the wards are uncontested, there being no more nominations than there are places to be filled, and this in spite of the fact that ten voters can put a rival candidate in the field. But in Boston, where it required (during the years 1909-1925) no fewer than 2500 signatures to nominate any candidate for the city council, an uncontested election was unknown.²

A comment
on this
fact.

Indeed, it might almost be laid down as an axiom of practical politics that the more intricate and more difficult you make the nominating process, the more candidates you will have. It is human nature to seek what is difficult to obtain, hence nobody wants what anybody can have for the asking. In an English city anyone can be nominated for the city council without substantial effort on his own part or on the part of his friends. It is easy to get ten names on anybody's paper. Hence there is no hard-won honor in merely having a paper filed.³ In America, on the other

¹The regulations relating to municipal nominations are set forth in the Municipal Corporations (Consolidation) Act of 1882, sections 55-56, and the accompanying schedules. A summary of interpretations may be found in T. J. Arnold's *Law of Municipal Corporations* (5th edition, London, 1910), pp. 250 ff.

²In 1925 Boston reverted to the ward system and reduced the number of names to 250.

³Candidates for Parliament, in addition to filing a paper with ten names, must make a cash deposit which is forfeited if less than a certain vote is obtained on election day. Candidates for the city council put up no deposit.

hand, we see candidates feverishly jostling one another for municipal nominations, even when there is no chance of their being elected. The reason is to be found in a combination of law and psychology. The laws have made an honor out of what ought to be a mere formality, and the psychology of the politician who wants his name in the newspaper headlines can be counted upon to do the rest.

The duty of preparing the list of candidates who have been nominated, also of fitting up the polling booths, having the ballots printed, and making provision for all the paraphernalia of an election rests upon the mayor, who is ex-officio the chief election officer of the municipality. But although responsible for everything, the mayor does not attend to the details; the actual work is performed by the town clerk or, in the larger boroughs, by the town clerk's assistant. If the number of candidates does not exceed the number of posts to be filled, the mayor declares all the nominees to have been elected unopposed. Twenty-five years ago these unopposed elections were very common, but they have now become somewhat less so. The Labor Party has put more zest into English municipal elections.

The
election
machinery.

Unopposed
elections.

When a polling is necessary, the mayor, in addition to providing ballots, ballot boxes, a certified copy of the register of voters, envelopes, and other necessary papers, must arrange for polling places and must see that at least four days before the election the various locations are duly published for the information of voters.¹ No official notice of the place and hour of polling is sent through the mails to the voters, as in French and German cities, but the candidates often send out poll-cards, as they are called. These tell the voter where his polling place is located and show him how to mark his ballot. Voters occasionally bring these cards to the polls and try to drop them in the box. The polling takes place in public buildings such as the town hall or the schools, if they happen to be conveniently located for the purpose. Halls connected with churches are sometimes used. But polling rooms in private buildings are not commonly hired

Polling
procedure.

¹The polling procedure in English borough elections is regulated by the Municipal Corporations Act of 1882, section 58; which adopted, with some modifications, the provisions of the Ballot Act of 1872 (35-36 Victoria, c. 33). At present the procedure in municipal and parliamentary elections is substantially the same.

and paid for out of public funds, as is the case in American cities.

Poll
officials.

When the municipality is divided into wards there must be at least one polling place for each ward, and usually there are two or more. Each poll is in charge of an official who is designated as the presiding officer of the poll. He is assisted by a poll clerk who is appointed by the mayor on the recommendation of the town clerk. All expenses, including the cost of preparing the ballots, are paid from the municipal treasury.

How votes
are cast.

When a voter enters the polling booth on election day, he is provided with an official ballot paper. This he takes into a little hutch or compartment which is provided for marking ballots. On being given his ballot, his name is checked on the register. A voter may be challenged by any of the polling agents who are present in the room, and every candidate is entitled to be represented at each of the polls by two agents who, like the other persons in the polling booths, are sworn to secrecy. But the laws do not permit a vote to be challenged on any ground except personation or repeating. The regulation on this point is as follows:

"The presiding officer shall, if required by two burgesses [*i.e.* voters], or by a candidate or his agent, put to any person offering to vote, at the time of his presenting himself to vote but not afterward, the following questions, or either of them:

(a) Are you the person enrolled on the ward-roll now in force for this ward, as follows: (*Read the whole entry from the roll*)?

(b) Have you already voted at the present election (*add in the case of an election for several wards*) in this or any other ward?

"The vote of a person required to answer either of these questions shall not be received until he has answered the first in the affirmative or the second in the negative."

The ballot.

The ballot is printed on plain white paper and contains simply the name, residence, and occupation of each candidate as set forth in his nomination paper. No reference to his party allegiance is permitted. The names are printed in alphabetical order. After each name is a blank space in which the voter may indicate his choice by making a mark. The law itself does not require that this mark shall be in the form of a cross but in the instructions to voters (attached as a schedule to the Ballot Act) it is so stated. In boroughs where several candidates are elected at

large, there is no possibility of voting an entire slate or ticket by marking a single cross at the head of the column, for there is no column. The English ballot throws the voter wholly upon his personal knowledge of the individual candidates, and in the absence of such knowledge affords him no guidance whereby he may make his choice. If a voter declares himself unable to read his ballot, it may be marked for him in accordance with his oral instructions by the presiding officer of the poll.¹

Although the English ballot is a model of simplicity, it is not absolutely foolproof, and spoiled ballots are by no means rare. A ballot is rejected in the count if the voter has marked it for more candidates than there are places to be filled, or if he writes on it anything by which he could be identified, or if he marks his cross in such a way that his intention cannot be determined.

When the result is a tie, the casting vote is given by the alderman who is assigned as returning officer of the ward in the case of a ward election, or by the mayor when the election is for the borough at large. A plurality is in all cases sufficient to elect. From time to time it has been urged that some system of proportional representation ought to be established in English municipal elections, but this proposal has not yet been adopted. Under the present arrangement there is often a great discrepancy between the total popular vote polled by adherents of a political party and the number of councillors that it succeeds in electing. It occasionally happens, under the ward system, that two thirds of the candidates are elected by an actual minority of the voters.²

¹An interesting testimony to the regard which the framers of the Ballot Act had for religious scruples is afforded by the provision that, if an election is held on a Saturday, orthodox Jews who object, on religious grounds, to voting in the ordinary way may, on request, have their ballots marked for them by the presiding officer of the poll.

²The following figures given by Mr. John J. Clarke of Liverpool (*National Municipal Review*, January, 1924) show the actual results of the Liverpool election on November 1, 1922, as contrasted with what the outcome would have been if a system of proportional representation had been in force:

Party	Total vote polled	Candidates actually elected	Presumable results under P. R.
Conservatives	50,270	15	10
Labor	34,372	1	7
Liberals	11,463	2	2
Nationalists	9,184	3	1
Communists	2,181	1	1
All Others	8,273	0	1
	<hr/> 115,743	<hr/> 22	<hr/> 22

No pro-
portional
counting
of ballots
in English
cities.

On the other hand, it is manifest that a system of proportional representation would draw party lines in municipal elections even more rigidly than at present and there is still a great deal of adherence to the doctrine that partyism should have no place in local government.

The ballot
box.

The ballot box is merely a covered tin pail with a slit in the top through which the voter drops his ballot. It is not a mechanical contrivance into which ballots are drawn by turning a handle, as in American cities. The English method of balloting is secret, although there is a way of finding out how each voter has marked his ballot, if the authorities desire to do this. For every ballot is numbered and this number is also printed on the counterfoil attached to the ballot. On the counterfoil, also, is inserted by the presiding officer the number that is set opposite the voter's name in the register. The counterfoil is torn off before the voter gets his ballot, but the number on the register identifies the counterfoil and the counterfoil in turn identifies the ballot. As a practical matter this is not of much significance, however, because all the polling officers are sworn to secrecy and there is no reason to believe that they ever join in a general conspiracy to violate their oaths by tracing individual ballots.

Duration
of polling.

The polling covers a single day and the polls must ordinarily be kept open from eight in the morning till eight in the evening; but if all the registered votes have been polled before eight o'clock, or if the space of an hour shall have passed without a single ballot being cast, the poll may be closed earlier. At the conclusion of the voting the ballot boxes are sealed and taken to the town hall, where the votes are counted in the presence of the candidates and their agents. Any papers which are objected to by the latter go into a special envelope to be dealt with later; in the meantime they are counted or not as the mayor may decide. The announcement of the result is then certified.

Recounts.

A recount may be had by application to the courts. If it is alleged that corrupt or illegal practices have been used to win an election, a petition may be filed by any candidate or his agent and the issue is then determined at a hearing before a special election commissioner. This commissioner is a non-resident barrister, of not less than fifteen years' standing, appointed by the High Court of Justice. His decision is final except on points of law.

Recounts and contested elections are not common in England. The Englishman is a good loser, whether in a horse race or a borough election. It is a national tradition that an election should be a fair fight with no favors—and no upsetting of the people's verdict by reason of technicalities. Hence an election will not be voided by reason of corrupt or illegal practices unless it is shown that these existed on a scale sufficient to have influenced the result of the poll. Municipal campaigns sometimes engender a lot of partisan and personal bitterness while the fight is on, but when the last vote is polled and the result announced, all the animosity seems to disappear overnight. This ability to fight, to forgive, and to forget is one of the traits which has given the Anglo-Norman race its primacy in the practice of democratic government.

CHAPTER V

THE PARTY SYSTEM IN ENGLISH CITIES

An
erroneous
impression.

There is a prevailing idea among American municipal reformers that the intrusion of national party politics into city elections is a phenomenon peculiar to the United States, and one that is greatly to be regretted. In European countries, it is often said, there is no close articulation of national and local politics. Municipal elections, over there, are fought on municipal issues,—not on questions of foreign policy, tariffs, currency, prohibition, and the restriction of child labor or the regulation of the railroads, as is so often the case in American cities. Our reformers are in the habit of praising this European arrangement and contrasting it with the American practice of dragging wholly irrelevant issues into municipal campaigns.

One quotation will serve as an example. "In the English cities", says Frederic C. Howe, "politics do not determine the choice of a man. The question is rather the efficiency of his service. . . . There is no boss to be placated. . . . There are no pledges to be made, save those that a man makes to his constituents. There may be but one candidate from a ward, or there may be a dozen. Very often there is no contest. A councilman whose service has been satisfactory will remain in office a score of years and never have his seat questioned. . . . This explains in part the high type of men who enter municipal life".¹

This may have been partly true twenty years ago, but it is not true of any European country today. In all of them, without exception, the national and local party lines have become coincident; they run vertically through all the areas of government just as they do in the United States. In some cases the identity of national and local party organizations is even more

¹ Frederic C. Howe, *The British City* (New York, 1907), p. 33. Mr. Howe is a former member of the Ohio State Senate, and a former Commissioner of Immigration at the Port of New York. He is also the author of an interesting book entitled *The Confessions of a Reformer* (New York, 1925).

exact than it is in this country. The situation differs somewhat from city to city, but in general the coincidence of national and local politics is more apparent in the larger than in the smaller municipalities.

In England, until about thirty years ago, the municipal elections did not usually create much partisan rivalry even in the larger boroughs. At times there were stubborn contests in which the two major parties struggled for the control of the town council, but more often a majority of the councilmen were returned without opposition. In Birmingham, for example, at the municipal election of 1893 there were contests in only six of the eighteen wards. In Manchester, there were seventeen contested wards out of twenty-five; in Liverpool, twelve out of sixteen; in Sheffield, only three out of twelve; and in Nottingham only six out of sixteen. If the sitting councilman was capable and attentive to his duties it did not matter much whether his national politics were Conservative or Liberal. So long as he desired to continue his service in the town council, the voters customarily gave him the opportunity. There were exceptions to this rule, of course. English municipal campaigns, even three decades ago, were not always conducted by unanimous consent.

English municipal politics a generation ago.

Then came the rise of a third party, the Labor Party, which in its earlier years was known as the Independent Labor Party. Groups of voters bearing this designation began to grow aggressive in the industrial cities during the early nineties. In 1894, for example, they contested five wards in the city of Liverpool but were defeated in all of them. In Manchester they tried for eight seats and won two. Labor thus became a factor in English municipal politics before it launched into the national arena and undertook an organized effort for the election of members to Parliament. Naturally, this aggressiveness of Labor in the industrial wards of the larger towns roused the older parties to more vigorous effort. In some cases it impelled them to unite their forces, for with only two candidates in the field the Laborist had a poorer chance to win than when the older parties were fighting each other. At any rate, by reason of their greater activity, assisted by their readiness to join hands when necessary, the Conservatives and Liberals managed to keep Labor from making much headway in the town councils during the next twenty years.

The rise of the Labor party :

1. Prior to 1900.

In this they were aided by two features—the improved organization of their own forces and the lack of unity which existed in the ranks of the Independent Labor Party. It took the older political parties a long time to realize that good organization for parliamentary campaigns depended upon the laying of a solid foundation in every borough and in every ward of every borough. But they eventually gained a proper appreciation of this fact, and from their central headquarters both Conservatives and Liberals turned their attention to the strengthening of the local associations. Gradually these Conservative (or Unionist) Associations and local Liberal Associations, with their committees, officials, and agents, were brought to a high pitch of efficiency. Their main function, of course, was to help elect the party's candidates for Parliament, but they were also available to help elect the party's aspirants to the town council as well.

2. From
1900 to
the war.

Labor, meanwhile, was not able to unite solidly. The Independent Labor Party was frankly socialist in its program, for which reason it could not make much headway among those workingmen who were not of socialist inclination. Nevertheless it recruited many of the latter to its ranks and the two irreconcilable elements among its members led to much internal discord. The party lost its campaigns in many cities during the closing years of the nineteenth century because of the personal and political rancor between these socialist and non-socialist elements in its membership. Repeated attempts were made to work out a basis of unanimity but not until 1900 was there much indication of success. In that year, however, a Labor Representation Committee was formed, representing the trades unions, trades councils, socialist societies, and the local associations of the Independent Labor Party. The purpose of this committee was to arrange for a united front in the next parliamentary campaign. It was fairly successful in achieving this end and in 1906 the united forces became officially known as the British Labor Party. Quite naturally, this unification of effort in national politics reacted favorably upon Labor's chances in the municipal campaigns and after 1906 the local candidates of the party had to be more seriously reckoned with.

During
the war.

During the years intervening between 1906 and the opening of the World War, the Labor candidates regularly captured many seats in the town councils, especially those of the larger in-

dustrial boroughs, and in a few cases actually got control of a majority. The war, while it lasted, was responsible for a subsidence of rivalry in local as in national politics. During the great emergency all parties agreed to adjourn their differences. Energies that had been devoted to organizing for political campaigns were deflected to the leviathan task of "making the world safe for democracy".

But this was merely an interlude, and even before the signing of the armistice the old partisanship began to be revived. In 1919 it flared forth as strongly as ever. The Labor Party, it now appeared, had gained strength from the demoralized economic conditions which the great conflict brought in its train. The general disillusionment, the slackening of industry when the war came to an end, the widespread unemployment, the housing shortage, and the burdensome tax rate—all these things created unrest among the people and gave them grievances against the two older party organizations. Consequently the Labor candidates developed great strength in the municipal elections of 1919-1920, and one town council after another went under the party's control. Except by joining hands with each other, the Conservatives (Unionists) and the Liberals saw no way of avoiding defeat in many of the cities. Consequently they endeavored to form combinations and to pool their strength wherever this appeared to be the only alternative to a Labor triumph. But the heyday of Labor did not prove to be of long duration in the boroughs. The inevitable reaction soon made itself felt, and the older parties, especially the Conservatives, regained control of almost all the town councils that they had lost.

Since
the war.

Thus the swing of the pendulum has tended to synchronize in both national and local politics. The strength and the weakness of the Labor Party in the boroughs has been roughly approximated to that displayed by it in parliamentary elections. The local program cannot be dissociated from national issues and Labor has not tried to divorce the two. Recognition of Soviet Russia, the proposed capital levy, the nationalization of the coal mines, and other issues which bear no relation to municipal affairs have figured largely in the borough campaigns of the past half dozen years. The tendency has been to let Conservatives and Laborists fight it out on broad grounds of national policy.

The
present
situation.

For the moment, therefore, English municipal politics are in a state of flux. The Conservatives (Unionists) and the Labor Party have become the two major parties, with the Liberals relegated to third place, but the Liberals are still somewhat stronger in the town councils than in Parliament. The future of Liberalism in local government must depend upon its course in national politics, for its fortunes in both spheres seem to be bound up together. The British Liberals have no clean-cut program in local administration. They are not so individualistic as the Conservatives nor so socialistic as the Laborists. They have coquetted with socialism at times but have never been ready to go the whole way. It remains to be seen whether there is any place in British politics for a party that travels in the middle of the road.

The Labor
Party has
compelled
the identi-
fication of
national
and local
party
lines in
Great
Britain.

At any rate, the rise of the Labor Party has virtually put an end to the old notion that national issues should have no place in British municipal elections. In the rural communities, whether boroughs or districts, that notion still persists, but in the larger industrial towns it is gone. The Labor Party has displayed no patience with the doctrine that a voter can be for it in one field of government and against it in another. If you are a friend of Labor, the assumption is that you have accepted its program, and its program cuts across all political boundaries. It embodies a set of principles, of fundamental principles, which are equally applicable in all spheres of government. The members of the Labor Party are under obligation to support its candidates at all elections, parliamentary and municipal alike. Every Labor candidate is pledged to the party's program in all its phases and in all fields.

The Labor
Party and
socialism.

The British Labor Party is avowedly socialist. It is affiliated with the Second Internationale and makes no secret of this affiliation.¹ And socialism is not merely a program but a creed. As a creed it knows only believers and unbelievers, friends and

¹The Second (Paris) Internationale, which is socialist, should be distinguished from the Third (Moscow) Internationale, which is communist. Many years ago Karl Marx endeavored to unite the Marxian socialists of all countries into a worldwide association or *Internationale*. He succeeded in organizing the First Internationale, which held several congresses but eventually went to pieces because of internal dissensions. Some years later it was reorganized at Paris as the Second Internationale and continued until the World War, when it suspended operations. At the close of the war the more radical elements deserted it and formed at Moscow the Third Internationale.

foes, allies and enemies. It makes no provision for half-way adherents. It is unthinkable, from the socialist point of view, that anyone can believe in national ownership of mines, railroads, and factories without also believing in municipal ownership of street railways, lighting plants, docks, and markets. Socialists contend that although the details of each problem may differ, there is one general principle underlying them all. Through the whole social system, from top to base, individualism must be replaced by collectivism. The community as a whole must become inalienably the owner and administrator of all land, all raw materials, all values and resources accumulated from the past. Socialism thus demands the specific application of one general rule to all public activities. Obviously there can be no such thing as a socialist in national politics only, or in municipal politics only. Socialism, as it spreads, must entail an exact coincidence of national and local party lines.

In keeping with this political philosophy, the British Laborists have not only stiffened the national party lines in the regular municipal campaigns but have injected partisanship into the Poor-Law Unions. The voters of these unions elect boards of guardians whose duty it is to control the local poor-law institutions and otherwise to dispense public charity. Obviously this is work which ought to be done on a strictly non-partisan basis, and prior to the World War the guardians were everywhere chosen without reference to their party affiliations. Religious rivalry sometimes cropped out in these elections, however, and made them turn on the issue of Churchman versus Dissenter, or Catholic versus Protestant. But since 1918 Labor has insisted upon putting its own candidates forward in most of the unions, with a program of increased allowances to the poor, and in many instances it has carried the elections.

Politics
and the
Poor-Law
Unions.

A word should be added concerning political parties in London, because the use of a special nomenclature in London elections has brought some confusion to the American mind. We read that the Municipal Reformers have polled more votes than the Progressives at the London County Council elections, or at an election of metropolitan borough councillors, and this seems at first glance to indicate that there are separate local parties in London politics. But such is not really the case. Back in 1888,

Political
parties
in the
metropolis.

when the London County Council was first established, it was tacitly understood that the election of county councillors would turn upon county issues. And at the first election the voters ranged themselves into two leading political divisions under the names of Moderates and Progressives. Despite these special designations, however, it became at once apparent that the Moderates were drawing their strength very largely from the Conservatives, while the Progressives were just as heavily recruiting their followers from the Liberal party. The lines of cleavage in national and London politics did not run exactly parallel, of course, nor could they do so, because different voters' lists were used in the two elections, but they coincided about as closely as they do in larger American cities. After a time the Moderates changed their name to Municipal Reformers, but their personnel has remained unaltered. The rise of the Labor party, and its spirited entrance into London politics, has merely accentuated the rigidity of the alignment; but the Laborists have cut more deeply into the ranks of the Progressives (Liberals) than into those of the Municipal Reformers (Conservatives). It is sometimes said that the Labor party wields a two-edged sword, with one edge much sharper than the other.

The
coalitions.

Attempts have been made to form coalitions of Municipal Reformers and Progressives against the Laborists in the various election divisions and metropolitan boroughs of London, but only to a very limited extent have these attempts been successful. The party leaders dislike to merge candidacies because it tends to devitalize the local organizations and thus to render them less efficient when the time for a parliamentary election comes. At the county council election of 1922 the two older parties fused their forces in certain districts, but in the campaign of 1925 their leaders decided to abandon this plan,—an unwise decision for the Progressives as the outcome proved.

The L.C.C.
election
of 1925.

At this election of 1925 there were one hundred and twenty-four councillors elected. Eight seats were uncontested; that is, only a single candidate was nominated in each of them. For the remaining one hundred and sixteen seats the Municipal Reformers nominated one hundred and ten candidates, the Labor party one hundred and thirteen, and the Progressives only forty-one. In addition there were four Independents. The result of

the election was a striking victory for Municipal Reform.¹ It should be explained, however, that this appellation is not to be construed in its literal sense. The Municipal Reformers in London do not believe in reforming the government of the metropolis. Anything in the way of radical innovation is the last thing that they desire. The Labor party is much more distinctly a "reform" party in the usual sense of the term.

Not only are the London elections conducted on national party lines but the work of the county council, and of the metropolitan borough councils, is strongly tinged with partisan rivalry and sometimes with a good deal of bitterness. The London County Council, in organizing its committees and in considering the recommendations of these committees, is largely influenced by party considerations. It makes no pretense of being a non-partisan body, although that is the theory on which it was originally constituted. If you stroll through the corridors of the new County Hall at Westminster, where its sessions are held, your eye will fall upon doorways which bear the legend, *Whips' Room*. Each party has its whips, as in the House of Commons, and by providing them with offices the council gives definite recognition to the party system. It is the function of these whips to see that the maximum party strength is polled on all controversial questions.

Party politics in the county council itself.

In the list of candidates at English municipal elections one finds a scattering of Independents. Occasionally this designation is used by candidates who are appealing to religious bigotry but who do not wish to be called by a strictly indicative designation. More often, perhaps, the Independent is some candidate who has fallen out with his party (if he ever had one) and is making his campaign on some personal program in which his own grievances have a prominent place. Most Englishmen agree that inde-

The Independents in English municipal politics.

¹ The following table shows the outcome of this election :

Party	Votes	Seats
Municipal Reform	532,006	75*
Labor	458,207	35
Progressive	88,604	6
Independent	5,922	0
Total	1,084,739	116

* To this should be added eight uncontested seats in which none but Municipal Reformers were nominated.

pendence in municipal politics is a self-evident virtue, and that independent candidacies ought to be encouraged, but when the ballots are counted it is usually found that not many voters have put this sentiment into the form of a pencil mark. The Independent, as a rule, stands at the foot of the returns. In London at the last county council election the four independent candidates polled less than six thousand votes out of a million. Without an organization behind him it is as difficult for an independent candidate to win a municipal election in England as in the United States, and perhaps more difficult.

Non-voting
in English
municipal
elections.

Even when an English municipal election is hotly contested, with important issues at stake, the parties do not usually manage to poll their full strength or anything approaching it. It is quite uncommon to find as much as two thirds of the registered vote polled on election day, and very often the figure goes down to twenty-five or thirty per cent. In London, at the election of 1925, there were almost two million names on the register. With a stiff fight between the Municipal Reformers and the Laborists under way, it was expected that a high percentage of these two million registered voters would come to the polls, but only about half of them did so.¹ In the United States there is a great deal of complaint about non-voting at municipal elections, but not often in a hotly contested election is the showing poorer than this. We regard it as a poor turn-out in any large American city when fewer than sixty per cent of the registered vote comes to the polls.

How
candidates
are
selected :

1. The
ward asso-
ciation.

How are candidates brought forward at English municipal elections? There are, of course, no regular primaries, as in most American cities. The first step is an informal one. In each ward of the borough there is a party association with a membership open to all the party voters who live in the ward. But as a matter of fact only a small percentage of them do belong to the ward association and still fewer attend its meetings. The ward association of each party has its executive committee, the members of which are ostensibly elected each year by the ward association but under ordinary conditions they are virtually self-chosen and self-perpetuating in their membership. When one

¹ Yet this was the best showing that London had made during a decade. At the election of 1919 the figure was 17 per cent, and at the election of 1922 it was 37 per cent.

member of the committee drops out, the remaining members agree on somebody to fill the vacancy and the ward association merely ratifies this choice.

The selection of the party candidates from each ward is in reality, and sometimes quite openly, made by these ward committees. In the smaller boroughs, where there are no wards, there are associations and committees for the whole municipality. The first step in the election of candidates for the city council is taken when the ward committee informally begins to discuss the prospects and the possibilities. The committeemen talk over the various availables and try to determine which of them would make the best candidate. They are not so much concerned as to which of them would make the best councillor, unless the ward happens to be one which the party controls by a safe majority. A good candidate must be sound in his allegiance to the party, popular in his ward, with a wide acquaintance, and preferably well-to-do, so that he can give a considerable portion of his time to the furtherance of his candidacy. He should be able to poll the normal party vote in the ward and also draw some votes from the other side. It is of advantage to be a member of various fraternal orders, to have a reputation for being generous, and to possess the gift of readiness in speech. The qualifications of a "good candidate" do not differ very much in city elections the world over. Something, moreover, always depends upon the nature of the ward, whether residential or industrial, its religious tendencies, and its social traditions.

When a ward committee has made up its mind that some individual would make a good candidate, it sends one of its members to sound him out. The prospective nominee is told that everybody is for him, that he would be sure to win, and that he can do his party a great service by consenting to run. He may give his consent, but quite often he declines. Then the committee turns to the next best man on its list and so on until somebody accepts the invitation. When things have been lined up in this informal way, a regular caucus of the ward association is called and ordinarily it adopts the committee's selection without demur. Not always, however, for sometimes a man whom the ward committee does not favor will project himself into the proceedings and manage to secure the caucus endorsement.

The candidate having been "adopted" by the ward caucus,

2. Qualifications of a good candidate.

The preliminary quest.

The
election
campaign.

the campaign to elect him begins at once. A party manifesto is issued to the voters telling them what the candidate stands for. Meetings or rallies are held, but not to the same extent as in American cities. There is very little paid political advertising in the newspapers, and the billboards are not largely used in local elections. Occasionally the candidates employ "sandwich men" who walk up and down the streets carrying placards, but this method of advertising is not so freely used as in parliamentary elections. The main reliance is placed on personal canvassing. The ward committee calls for volunteer canvassers and these helpers are given lists of names. The canvassers are supposed to interview every voter on their lists and to report how he (or she) is likely to vote. When the canvassers turn in their reports, a special drive is made on all those who are reported as doubtful. The candidates themselves also do a good deal of personal canvassing and sometimes manage to interview most of the voters in the ward.

English
and
American
municipal
election
campaigns
compared.

The English municipal campaign differs from the American in that there is much less hubbub about it. In the United States people seem to like a noisy campaign; the more noise and excitement the better. Hence the "good campaigners" provide brass bands and red fire, with speakers scurrying about in motor cars from one street corner to another, bellowing at each group of idlers. They seem to think that elections are really won in this way. But as a matter of fact very few voters are ever converted to a cause by torchlight parades or street-corner rallies. Such things are patronized, in the main, by those who have already made up their minds,—if, indeed, they have minds to make up. The English system of personal canvassing is far more effective, for it reaches the silent voters, the men and women who are to be found in their own houses during the evening hours and not on the public thoroughfares. Some American municipal politicians are aware of this and do as much personal canvassing as is practicable, but it is hard to get volunteers for such work.

Personal
canvassing.

There is another reason. Englishmen, for the most part, have no aversion to being canvassed, especially if the canvasser is the candidate himself or some prominent supporter. Many of them, in fact, deem it a personal compliment to be canvassed and feel slighted if they are overlooked. In the United States there is no such feeling. The average American voter does

not like to be "buttonholed by heelers", as he calls it. As likely as not he will tell the canvasser that voting is secret and that he isn't going to tell his intentions to anybody. Or, quite as often, he finds it easier to be agreeable, so he promises his vote to everyone who asks for it—with a mental reservation to do just as he pleases on election day. Canvassers are sometimes amazed at the popularity of their men among the voters, and equally astonished when the ballots are counted. Even when the canvassers obtain signed pledge cards from a majority of the registered voters in an American city it does not necessarily follow that their candidate will be elected.

In England, as in America, most voters are "regular". They stand by the party, and the party candidates, without much reference to issues or personalities. The percentage of fixed partisans is at least sixty per cent under normal conditions in both countries. Canvassing voters who are in this category does not pay for the trouble involved. And even as respects the open-minded section of the electorate every experienced campaigner knows that canvassing has its dangers. Volunteer canvassers are sometimes untactful and do more harm than good. As a substitute for personal canvassing it is sometimes customary for the English candidate to announce that he will be glad to have voters call on him during certain designated hours. Such invitations usually meet with a considerable response, but whether the plan produces an adequate dividend in the way of votes is not so certain. "My visitors", writes one candidate, in narrating his experiences, "ranged from the lady who called to discuss the abstruse præternatural problem of the day to the drunkard who called to borrow half-a-crown with which to re-establish and stabilize his financial affairs. Sometimes the drunkard got the half-crown as the easiest way of disposing of him, but I soon learned that so cowardly and idle a way of disposing of my borrowing friends was wrong. Not only did my friends return, but the glad tidings spread to others, for there is a freemasonry among habitual borrowers."¹

Visiting
the
candidate.

Organization is what wins elections everywhere, yet of all types of organization the political organization of a ward or district or city is the most difficult. It is much more difficult than business organization. The business man employs and

The difficulties of
organizing
an English
ward.

¹ Frank Gray, *The Confessions of a Candidate* (London, 1925), p. 48.

pays his helpers. He can eliminate the misfits. When he gives instructions he knows that they will be carried out, or somebody will lose his place on the payroll. But the candidate must depend for the most part on "the uncontrollable unpaid". His helpers give him their time for nothing. Many of them only clog the wheels, yet they cannot be cast out of the organization without antagonizing them and their friends as well. They want to be with the winner, yet do little to help him win. Discipline is the *sine qua non* of organization, but they do not want to be disciplined. Political organizations are more efficient in American than in English cities because it is the boss, not the candidate, who does the organizing. He is boss, as his name implies. He has no compunctions about exorcising the drones. In their places he takes on a body of dependable workers who are either paid outright for their services or whose energies are inspired by a lively sense of favors to come,—favors in the way of political patronage at the boss's hands. Political machines are hard to maintain in English cities because there is no spoils system to provide the sinews of war.

Getting
out the
vote.

The arrangements for getting out the vote on election day are not so well organized in England as in America. There are two reasons for this. Party committees and candidates in English cities are not permitted to hire conveyances for bringing voters to the polls. That practice is forbidden by law. They have to depend upon such motor cars as are voluntarily placed at their disposal and these are rarely sufficient. It is said that the Conservatives have a considerable advantage in this respect because the party contains more well-to-do members who own cars and employ chauffeurs, but an American observer of the London County Council election of 1925 remarked that the Laborists "were by no means without Fords and some real cars".¹

In the second place there are never enough volunteer workers on election day in England. In the United States these workers are largely recruited from among public office-holders and municipal employees whom the party or the candidate has helped in the past. Public employees in America get a day off when the polls are open. But in England no one in the employ of the city

¹ R. C. Brooks, "The London County Council Election," in *National Municipal Review*, vol. xiv, p. 345 (June, 1925).

or in the national civil service is permitted to take an active part in politics. The public employee votes, of course, but must not serve as a speaker, canvasser, or worker on polling day. In England the municipal employees are not given a holiday on the day of election, as in most American cities, for the purpose of working in the interest of the dominant party. A strict neutrality on the part of all officeholders is enjoined and enforced. Hence the number of skilled election workers is small and the task of getting out the vote has to be performed by amateurs who sometimes do it badly.

In England the laws restrict not only the purposes for which money may be spent during a municipal campaign, but the total disbursements for legitimate expenses as well.¹ The limit is twenty-five pounds where the number of registered voters is less than five hundred, with threepence additional for each voter above that number. Thus, in a ward having one thousand registered voters, the maximum legal expenditure would be about one hundred and fifty dollars. All payments must be made through an authorized agent appointed by the candidate in writing, and this agent must make a sworn statement of all monies expended by him. The agent is liable to a severe penalty if he fails to make this return or if he submits a false statement of expenditures.

Election
expenses.

Very few candidates for the borough council, as a matter of fact, ever spend as much as the law allows. On the other hand, they sometimes spend a good deal during the interval between elections in "nursing" the ward; that is, in making contributions to local charities and community enterprises. This is particularly true of a councillor who has an ambition to become a candidate for Parliament later on. When he can afford to do it, he displays a remarkable generosity towards all public causes. He contributes handsomely to the funds of the local cricket club, the British Legion, and the Children's Hospital. He dips into his pocket for odd shillings to help constituents who are out of health, out of work, or out of luck. This practice of "nursing" is not frowned upon in England; it has become an established institution. Candidates for the House of Commons resort to it

"Nursing"
the ward.

¹ Many expenditures which would be quite legitimate in America are forbidden in England, e.g. the hiring of more than one committee room for the ward, the hiring of bands, or the making of any payment for torches, banners, badges, etc.

much more extensively than do the would-be councillors. Some years ago it was predicted that when Labor became sufficiently strong in politics the practice would cease, but there are no indications of any such outcome thus far. Labor picks well-to-do candidates when it can find them, and they play the game like their opponents.

The real
total of ex-
penditures.

Despite the technical limitation of campaign expenses, therefore, a good deal of money is spent in English elections. The contrast between England and America may perhaps be put in this way: In England the spending goes on all the time; it is distributed over the whole interval between elections; and much of it is masked by the cloak of philanthropy. In America the expenditures are largely concentrated into the few months or weeks which precede the election and they are avowedly political. As to the total amounts involved it is impossible to make any fair comparison. Nobody but the candidate knows, in England, what the process of ward-nursing costs. We say that English election campaigns are conducted cheaply because the amount of reported expenditures is small. But the official reports do not tell the whole story in either country. In both England and America there is a good deal of spending that never goes into these official tabulations at all.

Election
rivalry
and the
spoils
system.

English municipal campaigns are often lively and sometimes the contest is bitter, but there is no spirit of "win at any cost" such as frequently pervades the campaign atmosphere on this side of the Atlantic. "I shall win", a Philadelphia gangster once said, "because I am ready to risk the penitentiary to do it, and the other fellow isn't." No elective office in England would be worth risking the penitentiary to win. There is not enough profit or patronage involved. When one political party captures an English city from its rival, this does not mean that it can proceed to distribute jobs and contracts among its own followers. It gets something in the way of booty, no doubt—a few small jobs and perquisites—but not enough to make any great fuss about. The voter knows that no great change will take place in the administration of the borough, whichever party wins. There is no city-wide contest for mayor, as in America; hence the whole campaign cannot be focussed upon the rival claims of two outstanding candidates. In all the larger municipalities the councillors are chosen by wards and in some of the wards

there are usually no contests. This, of course, takes the edge off the excitement. There would be even less of it were it not for a certain amount of ginger that is injected into the municipal campaign by party leaders who care very little about local issues or politics but want to keep the party organization from getting rusty during the interval, sometimes a long interval, between parliamentary campaigns.

Corruption in American municipal elections has not been mainly due to low standards among the voters; it has been actuated by the immense prizes that are placed before a contestant's eyes. The candidates know that not honor alone, or prestige, hinges upon the outcome of the campaign but a vast amount of patronage also, and in many cases the opportunity for personal enrichment if the victor is not over-scrupulous about his ethical standards. The spoils system has been the great corruptor in American politics.

There are rings and bosses in English cities, although they are not known by these names, and their sway is not so openly exercised as in America. Town councillors profess to be free and independent, but they respond to the crack of the party whip all the same. The party committee does not hesitate to tell its councillors what to do, if any partisan question arises, and as a rule they do it. The chairman of the committee, when his party secures a majority in the council, is sometimes a boss in the American sense and may be the main factor in selecting the mayor. If he does not call the councillors into conference and dictate to them, it is only because he has more subtle ways of attaining his end. The Labor councillors, in particular, have shown remarkable docility when the word comes to them from leaders and committees. The Labor Party is primarily interested in carrying the national elections, and its national leaders view the local campaigns from that angle. They freely admit, of course, that national party leaders have no right to interfere in local politics, but on the other hand they do not overlook the necessity of guiding and advising the local organization. This guidance and advice, when strongly pressed, becomes tantamount to dictation. It must be so. When national and local party lines coincide, it is inevitable that the greater interest will override the less. In so far as the Labor Party has helped to make these lines coincide, therefore, it has opened the door to more

Rings and
bosses.

frequent and more drastic interference with the independence of the local organizations.

A curious
incon-
sistency.

Thus it comes to pass that the party which most loudly proclaims its devotion to the principle of local self-determination is the one which, in a roundabout way, is doing most to prevent the true application of that principle. This is not surprising. In America we have seen Tammany shouting for municipal home rule while tolerating the rankest kind of statewide bossism over the municipalities. Cities must be free from interference at the hands of the legislature, according to the philosophy of the Wigwam, but freedom from the despotic rule of outside political manipulators is another matter. It is an outrage that the legislature of Illinois should dictate to Chicago the form of its government, but by no means so palpable an outrage that the mayor and aldermen should act in obedience to the dictation of a state boss. Birmingham and Manchester, similarly, ought to be free from interference at the hands of the central departments in London, but not necessarily should they be free to disregard the interests of Labor as determined by the national leaders of the Labor Party. When principles and interests come into collision, it is the principles that give way. And why not? Of what use would Labor principles be, or Conservative principles, if Labor councillors or Conservative councillors were not willing to apply them?

CHAPTER VI

THE TOWN COUNCIL

ITS ORGANIZATION AND POWERS

The council of an English borough is known as "the town council". Where the borough has been given the title of a city it is more commonly called the city council, but its organization and powers are the same in either case. It is the sole governing organ of the municipality and is composed of the mayor, aldermen, and councillors sitting together. The councillors are elected by the voters; the aldermen and the mayor are chosen by the council. But this does not mean that there is any separation of executive and legislative powers in an English municipality, for there is none.

The terminology.

The size of the town council varies with the size of the borough. The number of councillors is fixed by a provision in the borough charter, but it may be changed on petition of two thirds of the council in a way which has been prescribed by law.¹ In any event the number of councillors is designated and these councillors elect one third as many aldermen. The councillors may choose the aldermen from among themselves or they may go outside their own ranks and make the selection from among those citizens who are qualified to be councillors. Usually, but not always, they pursue the former course. When a councillor is thus chosen by his fellow-councillors to be an alderman, his place is filled at a special election. Hence there is a by-election every third year (after a new batch of aldermen have been chosen) and also whenever an alderman dies or resigns. The aldermen and councillors have the same voting power. The only difference is that the aldermen have a six-year term while the councillors are elected for three years only. An English town council is made up, therefore, two thirds of councillors elected by the people for

How the council is constituted.

¹The procedure is laid down in Section 30 of the Municipal Corporations Act, 1882, modified by the Borough Councillors (Alteration of Numbers) Act of 1925.

three years, and one third of aldermen appointed by the councillors for six years. It may be added that the aldermen are older and more experienced men, as a rule, and for that reason often serve as chairmen of the council's committees. They also serve as presiding officers at ward polling places on election day. One of their number is usually designated as deputy-mayor to serve when the mayor is absent. The prestige of an alderman is also somewhat greater than that of a councillor, and the aldermen have precedence on occasions of ceremony. Together the aldermen and councillors elect the mayor for a single year.

Its size.

The mayor, aldermen, and councillors make up a relatively large body. The city council of Liverpool, for example, has 153 members, namely, the lord mayor, 38 aldermen, and 114 councillors. Manchester has a lord mayor, 35 aldermen, and 105 councillors, making a city council of 141 members in all.¹ Thus the English city council, in the larger municipalities, assumes the proportions of a legislature. The mayor presides over its meetings, which are of a formal character and conducted strictly in accordance with the rules of parliamentary procedure. Meetings are held weekly or fortnightly in the larger boroughs but only once a month in the smaller ones.² Special meetings may be called by the mayor at any time and must be called at the request of any five members. One third of the total membership constitutes a quorum, except when "bylaws relating to the good rule and government" of the municipality are being passed, in which case at least two thirds of the members must be present.³ In the event of a tie on any question, the presiding officer has the casting vote even though he has already voted as a member of the council. The meetings are open to the public. Neither the mayor, the aldermen, or the councillors receive regular salaries.

its
meetings.

Its status
as a local
authority.

The town council is both the legislative and the administrative branch of English borough government. There is no system of checks and balances. The whole corporate authority of the borough is vested in its council; there is no disintegration of powers among the council, the mayor, and various independent

¹ Corresponding bodies in the United States are as follows: New York board of aldermen, 73 members; Chicago city council, 50 members; Philadelphia city council, 25 members; Detroit city council, 9 members.

² The Municipal Corporations Act requires four meetings a year.

³ For an explanation of the term "good rule and government" see *below*, p. 115, footnote.

boards as is the case in most cities of the United States. If an English city has obtained power to do anything, there is no need to ask who exercises this power. It is the council or its committees—always. But not every town council possesses the same range of authority. It may do some things in Liverpool which it may not do in Manchester, and vice versa. Much depends upon what private acts of Parliament each council has obtained, what provisional orders have been issued in response to its requests, and what adoptive acts have been accepted by it. But the differences in the powers of town councils are not of great importance on the whole. They relate mainly to local matters.

The council, first of all, is a lawmaking body. It has authority to pass bylaws for the protection of the public health, for the abatement of nuisances, for the security of life and property, for the regulation of traffic in the streets, and for promoting the "good rule and government" of the inhabitants; provided always that such bylaws are not in conflict with national statutes. Bylaws have been defined as "local laws, made with due obligation, by some authority less than the sovereign and parliament, in respect of matters specially referred to that authority".¹ The bylaws are usually drafted by the town clerk; they are then introduced by some individual councillor or alderman and must be given three readings as required by the standing orders of the council. If the proposed bylaw is of much importance it is usually considered clause by clause in committee of the whole council before being finally voted. It may be passed by a simple majority of votes and as a rule goes into effect at once, for the mayor of an English borough has no veto power, either absolute or qualified.

Legislative
powers of
the
borough
council.

In the case of bylaws relating to the protection of the public health and some other matters, however, the action of the council requires confirmation by the Ministry of Health. Bylaws for "the good rule and government" of the municipality are subject to veto by the Home Secretary.² In addition the council may make regulations which, as a rule, are not subject to review by

Ratifi-
cation
of bylaws.

¹T. J. Arnold, *Law of Municipal Corporations* (5th edition, London, 1910), p. 47.

²The term "good rule and government", as used in England, is a rather comprehensive term. It refers to matters on which the council has a general right to pass bylaws but which are not covered by specific grants of authority.

the central government. In general the bylaws deal with affairs of city-wide importance and are enforced by the local magistrates, while the regulations relate to minor matters or are for the guidance of the council's own officers. But this distinction, like most others in English administration, does not always hold good.

Borough
bylaws.

The authority to make bylaws and regulations for the conduct of its own affairs is a power which the common law vests in all corporations, and such bylaws or regulations are binding on all members of the corporation, unless they are repugnant to the common law, or to the provisions of a statute, or to the charter of the corporation itself. Along with this authority to make bylaws there goes an implied power to enforce them by the imposition of appropriate penalties for violation. But nowadays the power of the town council rests almost wholly upon statutes and a bylaw is merely the means whereby it puts into operation some power which has been vested by Act of Parliament in the borough authorities.

Grounds
on which
they may
be held
invalid :

The validity of municipal bylaws may be attacked in the courts on various grounds. Numerous cases affecting the validity of bylaws have come before the English courts and the rules relating to this matter are now fairly clear. They may be summarized as follows:—

1. Lack of
compliance
with the
forms.

1. A bylaw must be passed with the formalities prescribed by the statutes and by the standing orders of the council. The statutes require, for example, that two thirds of the whole membership of the council (counting mayor, aldermen, and councillors together) shall be present when certain bylaws are passed. It is not necessary, however, that at least two thirds of the members shall vote on the question. Bylaws must also be introduced with such notice, and must be given three readings, as required by the council's standing orders, unless these orders are first suspended by the council in the way prescribed. The courts will refuse to uphold a municipal bylaw where these formalities are disregarded. On the other hand, they will not quash a bylaw by reason of some minor non-compliance with the established procedure. The breach of procedure must be clear, flagrant, and detrimental to somebody's rights.

2. Lack of
jurisdiction.

2. Bylaws must not be *ultra vires*; that is, must not deal with matters which are outside the council's competence. The powers

of the council are delegated powers and although conveyed in broad terms they are by no means unlimited. Even the power to make bylaws "for the good rule and government" of the borough has its limitations. On the whole, however, the English courts have been very liberal in their interpretation of these delegated powers. They have displayed none of the strictness which American courts have too often shown when called upon to determine the validity of municipal ordinances.

3. Bylaws must not be in conflict with the general laws or with special Acts of Parliament. But the courts will not construe the provisions of a bylaw in such way as to place them in conflict with a statute if any other reasonable construction is possible. Nor will they quash a bylaw on grounds of conflict because it merely forbids something which the statutes by their silence permit—for example, if it prohibits all persons from "using or frequenting the streets for the purpose of making wagers", although betting has not been made illegal by the general laws.¹ On the other hand, a bylaw cannot make illegal anything that the general laws expressly permit, or permit by necessary implication.

3. Conflict with the laws.

4. Bylaws must be general in their provisions and certain in their terms. They must be equally applicable to all persons in the same category. They must not single out individuals, or groups of individuals, or some portion of the borough, for special discrimination. But a bylaw, if general and non-discriminating in its scope, is not void because its provisions, in the nature of things, happen to affect a few persons only, or a single section of the community. Thus a bylaw forbidding the storage of more than five hundred gallons of gasoline in any one building is not void for want of generality because its force happens to fall on one establishment only; to wit, the one public garage that the borough contains. The rule that a bylaw must be certain and positive in its terms is one that is maintained for the protection of the individual citizen. He is entitled to be definitely informed concerning what the bylaw requires him to do or to refrain from doing. Hence a bylaw forbidding all persons from "using offensive language" and "annoying others" was held by the courts to be invalid because it did not afford the inhabitants certain and positive information as to what it intended to pro-

4. Lack of certainty.

¹Thomas v. Sutters, 16 *Term Law Reports* (1900).

hibit, but used terminology that was susceptible of various interpretations.¹

5. Lack of
reasonableness.

5. Bylaws must be reasonable in their provisions. A great many municipal bylaws in England (as in the United States) have been invalidated as unreasonable. Unreasonableness, of course, is a matter of judicial opinion. No statute lays down any general test or standard by which reasonableness can be determined. And the decisions of the courts reveal a wide diversity of opinion. But in general an English municipal bylaw is not held void for the mere reason that the judges think some of its provisions imprudent or unnecessary, or because it omits something that they think ought fairly to have been included. The real issue, in determining reasonableness, is whether the bylaw seems likely to cause annoyance or inconvenience out of proportion to the end that it is expected to achieve. But this is an issue which gives abundant ground for difference of judicial opinion, as the English decisions show.²

6. Re-
straint of
trade.

6. Finally, bylaws must not be in absolute restraint of trade. The common law gives every inhabitant of a borough the right to pursue any honest trade by honest methods and this right the Acts of Parliament have never taken away. Bylaws of the borough must not deprive him of it. On the other hand, the town council, through its bylaws, may regulate any trade in order to abate a nuisance or to promote the good rule and government of the inhabitants. In other words, the rule in England is the same as the rule in America; namely, that the local authorities may regulate or even prohibit the carrying-on of any trade or vocation under its "police power" (as we call it), when such regulation or prohibition is clearly demanded in the interest of the public safety, health, morals, or convenience.

On any of these grounds bylaws may be declared invalid by the courts, or, in some cases, they may be disallowed by the central authorities, notably by the Ministry of Health or by the Home Office. These two departments, by their veto power, have prevented the actual going-into-operation of many bylaws which certainly would have been nullified by the courts if they had ever got that far. On the other hand, it ought to be men-

¹ *Nash v. Finlay*, 66 *J. P.* 183; 85 *L. T.* 682 (1902).

² For numerous examples of bylaws that have been voided or upheld, see *T. J. Arnold's Law of Municipal Corporations* (5th edition, London, 1910), pp. 49-51.

tioned that the failure of central departments to disallow a bylaw, or indeed the actual confirmation of it by them, does not in any way prevent the courts from subsequently declaring it invalid.

Next in importance to the council's authority in relation to bylaws are its powers in connection with the financial affairs of the borough. The council is the custodian of the "borough fund", which is a term used to include the proceeds from all property owned by the municipality, payments for the use of the streets by companies, the profits of municipal enterprises, such as water and gas works, together with fines, fees, and other incidental revenues. The English borough, it should be explained, is sometimes an extensive holder of real property, much of which it leases for long terms to private individuals and from which it frequently derives a considerable annual income.¹ Over the proceeds accruing from the use of this corporate property the power of the council is complete, but its jurisdiction in regard to the selling, mortgaging, or leasing of the land is restricted by various general and special statutes.² Save in exceptional cases, for example, the council can grant no lease of municipal property for a period exceeding thirty-one years without the permission of the Ministry of Health. In addition to the revenues annually derived from municipal property, the borough fund is considerably augmented by the receipts from public service companies (such as water, lighting, or tramway companies) or by profits from the direct municipal operation of these services.³ Many of the boroughs, moreover, obtain a substantial amount

Financial powers.

The borough fund.

¹ Figures showing the amount of income derived by the boroughs from this source are published annually in the *Municipal Year Book of the United Kingdom*.

² For the detailed restrictions, see the article on "The Acquisition, Sale, and Letting of Land by Local Authorities" in the *Encyclopædia of Local Government Law*, vol. i, pp. 114-155.

³ There is no question that many English cities make large profits from their municipal trading enterprises—but how large is a matter of controversy. This is because they do not keep their profit and loss accounts in the way that an ordinary commercial enterprise would keep them. They do not always debit the waterworks or gas or electric lighting or tramways accounts with every item which fairly belongs there. The superintendents and clerical staff of these enterprises sometimes get offices in the town hall with no rent charged, or they have the services of the borough's legal officers without charge, or the borough surveyor helps them without cost. On the other hand, the accounts of the municipal trading enterprises are not always credited with all that they really earn, for example, with water or light supplied to public buildings. Figures are given out at the close of each fiscal year, and on the whole they are trustworthy, but for the reasons given they do not always afford an absolutely accurate statement of net profits.

from the proceeds of market tolls, port dues, and miscellaneous sources. Finally, there are the grants-in-aid or subsidies which the national government pays each year to the boroughs as its contribution towards the cost of police, public health protection, the schools, and certain other local enterprises.¹

Under the authority of the council the monies in the borough fund are applied to the payment of annual municipal expenditures. Some of these expenditures are mandatory; that is, the council has no discretion in the matter. Such, for example, are the expenses connected with the registration of voters and the salary of the borough recorder or magistrate. These payments may be made without an order of the town council. As regards certain other payments, such as the interest on the borough's debt, an order of the council is necessary but the council has no discretion but to make it. Finally, as respects the great majority of the expenditures which are chargeable against the borough fund, the council is free to do as it pleases; subject, however, to the fact that in some cases its action must have the approval of the Ministry of Health.²

If the borough fund suffices to pay these expenses, no borough rate is levied; but it is almost never sufficient, hence the town council must supplement these sources of income by a levy upon the inhabitants.³ This is not done, as in America, by having the municipal assessors make a valuation of all private property within the city limits. The assessing has been done from time immemorial by officials known as "the overseers of the poor", which is a very misleading appellation inasmuch as they have nothing whatever to do with the poor. There are two overseers for each parish and the valuating is done on a parish basis. But this system will come to an end in 1927 under the terms of the

¹ For a full account of this system, see Sidney Webb's *Grants in Aid* (new edition, London, 1920).

² No money may be paid out of the borough fund for the promotion of a private bill, for example, without this approval, but the approval is usually given as a matter of course.

³ For a discussion of the law and practice of borough rating, see W. C. Ryde's *Law and Practice of Rating* (5th edition, London, 1925); E. M. Konstam's *Rates and Taxes: A Practical Guide* (London, 1906); the same writer's "Rates and Rating" in the *Encyclopædia of Local Government Law*, V, pp. 311-468; L. Gaches, *Rates and Assessments* (London, 1920); and Knight's *Overseers' Manual* (4th edition by G. P. Warner Terry, London, 1921), is also useful. There is a clear, concise and readable summary of the subject in C. F. G. Masterman's *How England Is Governed* (New York, 1922), chap. vii.

Expenditures from it.

The levying of "rates" or local taxes.

Rating and Valuation Act recently passed by Parliament. This statute provides for the abolition of the overseers and transfers their functions, in boroughs, to a committee of the borough council. Instead of separate rates for each parish, moreover, there will henceforth be a general rate levied for the whole borough.

In American cities the assessors put down the market value of property; in England, as has been pointed out, all forms of property are "rated" on their assumed rental value. Certain classes of property, however, are exempted from being rated. The exemptions include places of worship, property owned by scientific bodies not managed for profit, lighthouses, armories, and so on. With a few exceptions property occupied for governmental purposes in the name of the crown is not liable to be rated, but it is the settled policy of the national government to make contributions in lieu of taxes as respects all its exempted property. This is a generosity which stands in sharp contrast with the practice pursued by the American national and state governments. The latter claim exemption from local taxes on all property owned by them and contribute nothing in lieu thereof. The one exception is Washington, where the national treasury pays half the cost of the local government.

It has been the practice in English boroughs to levy three rates per annum. The first, known as the poor rate, has provided funds for the relief of the poor and for some other purposes, including the borough's contribution to the cost of county government. The second, known as the general district rate, has taken care of expenditures connected with the public health, while the third, called the borough rate, has been utilized to cover the remaining outlays. Under the provisions of the Rating and Valuation Act, 1925, there will be one consolidated rate in 1927 and thereafter. The poor rate, district rate, and borough rate will be merged.

The rates which the town council causes to be levied are based upon estimates of expenditures, but a borough rate may also be made retrospectively; that is, to raise money for the payment of expenses already incurred. Early in each calendar year it is the duty of the council's various committees (such as the committee on highways, the watch committee, and so on) to determine the respective amounts that will be needed to carry on their work. These estimates are prepared by the committees

The
valuation
list.

The
merging
of the
various
rates.

The
council's
control of
expendi-
tures.

in consultation with the permanent officials of the borough and the basis of computation is the actual expenditure of the preceding year. The estimates are then brought together by the finance committee of the council, which arranges them into a comprehensive municipal budget. This budget the chairman of the finance committee lays before the council at a regular meeting. The various items or groups of items in the budget are then taken up by the council in committee of the whole, and during this consideration such changes may be made as a majority of the councillors agree upon. Items may be stricken out, increased, diminished, or allowed to stand. The council is free to make changes as it pleases except in the case of uncontrollable expenditures (such as the salary of the recorder, or interest on the borough debt) or in the case of amounts asked for by a statutory committee such as the watch committee. An endeavor is usually made to trim the budget to a point where an increase in rates will not be necessary but this goal is seldom attained. Local rates in England, like city taxes in America, have risen greatly during the past ten years. When the budget has been finally agreed upon by the council it does not need the approval of any higher authority, as in France. It becomes effective on passage, and each committee of the borough council is then authorized to expend the amount credited to it in the appropriations.

As compared with the municipal systems of other countries, the English procedure might seem to be lacking in safeguards for economy. The members of the finance committee, who present the list of proposed appropriations to the council, are in no way responsible for the estimates. Nor is there any concentration of responsibility for increases made while the budget is under consideration by the whole council. A bare majority of the council decides the matter. The municipal budget does not, as in the United States, encounter any check in the form of a mayor's veto.¹ If the taxpayer regards the appropriations as excessive, his only remedy is to record his vote, at the next election against those councillors from his own ward who may have

¹ On the scope of the mayor's veto in relation to the budget in American cities, see A. E. Buck, *Municipal Budget Systems* (New York, 1925), and R. E. Taylor, *Municipal Budget-Making* (Chicago, 1925). There is no executive veto, of course, in those cities which have the commission form, or the city manager form of government.

helped to put the budget through.¹ This redress is not very satisfactory, however, for the councillors from his own ward will at best form only a small portion of the whole body. For many years a similar plan of municipal budget making was pursued in most American cities, but it was found that gross extravagance resulted from the log-rolling practices of ward councillors. Each ward of the city, through its representatives, insisted on having its due share of the money, irrespective of the difference in current needs. So the making of the budget, in most American cities, has now been taken out of the council's hands altogether. It has become, in large measure, an executive function.

But despite the temptation to wastefulness which the English system of municipal budget making would seem to provide, the plan has worked fairly well, on the whole. There is no agitation for a change. In principle there may be a diffusion of responsibility, but in practice there is not. During the past half-dozen years there have been some sporadic instances of gross extravagance in English boroughs, notably in the metropolitan borough of Poplar where the council voted all the borough employees a scale of wages in excess of that paid to skilled workers in technical trades. Street cleaners were placed on a basis higher than locomotive engineers. All along the line the Poplar council scattered the borough fund with a free hand and the rates soared sky-high. The ratepayers appealed to the Ministry of Health and the latter not only disallowed some of the payments but ruled that the councillors would have to reimburse the borough fund for the excessive expenditures. Thereupon the issue went to the courts, which sustained the ruling. This episode attracted widespread attention but it ought not to be regarded as typical.

Borough councils have power not only to spend but to borrow. The initiative in borrowing rests with the council, but no permanent debt may be incurred without the approval of the national authorities. This approval may be granted by the provisions of a general or special act of Parliament, but more often it is obtained from one of the central departments. Loans to erect public buildings are approved by the Treasury. Loans for sewer construction, the erection of hospitals, and other works which the boroughs are by statute compelled to supply, require

How the
English
plan
functions.

Central
supervision
of all local
loans.

¹ In certain cases, however, the Ministry of Health may disallow payments on complaint of the ratepayers.

the consent of the Ministry of Health. If a borough proposes to municipalize its tramways and to get the necessary capital by the issue of municipal bonds, it must have the approval of the Ministry of Health and the Ministry of Transport. Loans for school buildings require the sanction of the national Board of Education. The borough council has no inherent authority to borrow money; it must always find warrant for its loans in some general statute, or adoptive act, or private act, or order issued under the terms of a statute. In any case, the power to borrow is granted or withheld on the merits of the individual application; there is no municipal debt limit applicable to all English cities such as is fixed by the constitutions or laws of various American states.¹ An English borough cannot borrow a single shilling as a permanent charge upon the municipality without the prior consent of some national authority, but with this permission it may incur indebtedness to any amount.²

Strictness
of this su-
pervision.

In granting its approval to a project of municipal borrowing, the central government lays down rules as to the form of bonds to be issued, the rate of interest to be paid, and the provisions to be made in the way of sinking funds or other arrangements for the repayment of the loan on the expiry of the term for which it was contracted. English cities, by the way, still use the sinking fund method which is now being generally abandoned by American municipalities in favor of the serial plan of bond issues and repayments. The latter is by every test the better of the two methods.³

The in-
crease of
municipal
debts in
England.

Both parliament and the central departments have been very lenient in approving projects of municipal borrowing during the past ten years, and the debts of English cities have grown enormously during this decade. Money has been borrowed for public works and buildings of all sorts, for street reconstruction,

¹The usual American practice is to fix the limit at a stated percentage of the total assessed valuation—say five per cent. Then, if the assessed valuation is a billion dollars, the city may borrow up to fifty million dollars and no more.

²There is one exception, namely, that loans made for public health purposes, or for the erection of public libraries, must not exceed one year's assessable value of property for local taxation (see *above*, p. 121), but the Ministry of Health is empowered to raise this limit to two years' assessable value. For a further discussion of this matter see J. H. Burton, *Loans and Borrowing Powers of Local Authorities* (London, 1924).

³For the reasons, see the author's pamphlet on *Methods of Municipal Borrowing: Sinking Funds versus Serial Bonds* (Boston, 1918).

for playgrounds, for the extension of trading enterprises, for the building of workmen's dwellings.¹ Borough indebtedness in England has been increasing more rapidly than population, rateable values, or revenues. In this respect England does not differ from other countries, for everywhere there has been a great increase in municipal borrowing during the past ten years. It would avail little to attempt a comparison of English and American cities in this respect because figures of gross indebtedness do not mean very much. In one municipality a large portion of the increased indebtedness may have been incurred for enterprises which pay their way, such as waterworks or an electric lighting plant, while in another the money may have been frittered away in things which ought to have been financed out of current revenues.

So much for the town council's financial powers. The council also has administrative jurisdiction of an extensive and important character. It is an administrative body to an even greater extent than a maker of bylaws or a controller of local finance. This will sound strange to American ears, for in the United States we do not think of a city council as an administrative body.² In most American cities the mayor and the heads of departments perform the administrative functions; the council has nothing to do with them.

The council's jurisdiction.

Administrative work in a city includes such things as the building and repair of streets, the management of water supply and sanitation, the care of the public health, the provision of recreation, police and fire protection, the maintenance of parks and public buildings, the supervision of schools, the granting of licenses, the care of the poor, and all the other services which a modern municipality is expected to provide for its people. The list is gradually widening. Scarcely a year passes without new services being demanded and new functions assumed by the administrative authorities. In English boroughs all branches of this work, with some important exceptions, are under the control of the town council.

Its general scope.

¹ In some cases money can be borrowed from the national government through the Public Works Loan Commissioners, but in the main it is obtained by the sale of housing bonds, sewer bonds, etc. Birmingham, under a special act of Parliament, has established a municipal bank which handles most of that city's borrowings.

² An exception may be noted in the case of those American cities which have adopted the commission form of government.

What it
does not
include.

The first of these exceptions is poor relief. English town councils have nothing to do with the care of the poor. The whole country is divided into districts known as Poor-Law Unions, which may include more than a borough or only part of a borough. Each union has an elective board of guardians which obtains its own revenue from the poor-rate and spends this money under the supervision of the Ministry of Health. A second exception has to do with the granting of liquor licenses, which is not within the authority of the council but is handled by the justices of the peace. These officials are appointed by the national government, which also prescribes the regulations relating to the sale of intoxicants. The police of the borough, again, are not (strictly speaking) under the control of the council but are subject to the jurisdiction of a statutory committee known as the watch committee. But, since all the members of this committee are drawn from the town council, and since all its actions are in practice reported to the whole council, the statutory freedom of the watch committee is not a matter of much real importance. In the fourth place, the local schools are in each borough under the direct supervision of an education committee, the members of which are not in all cases members of the town council. On the contrary, the education committee must contain a minority of outsiders. Most of the work done by an education committee must have the approval of the town council, but the council may delegate to the committee all its powers in this field except the levying of taxes and the borrowing of money. Under this provision many final powers have been turned over to education committees. Finally, the council has nothing to do with the auditing of borough accounts. This work is performed by three auditors, two of whom are elected by the voters of the borough and one appointed by the mayor.

The
council's
powers in
relation
to :

1. Public health.

With these exceptions the council controls the administrative affairs of the city. It is the local highway authority. As such it has power to acquire land for streets, to build them, maintain them, and regulate traffic upon them.¹ It is the local sanitary authority with power to abate nuisances, to regulate offensive trades, to compel the draining of premises, to build and operate a system of sewerage and sewage disposal, and to provide for the

¹H. H. Copnall, *The Law Relating to Highways* (London, 1918), is a useful guide to the administration of the law in this field.

removal of garbage and other wastes. General powers in relation to the municipal water supply are vested in the council by various general statutes, notably the Waterworks Acts of 1847 and 1863 and the Public Health Act of 1875. By this last named statute the town council is also designated as the local health authority, with power to provide for the inspection of food, to take measures against the spread of communicable diseases, to regulate slaughterhouses and markets, to provide and maintain hospitals, to compile vital statistics, and in general to care for the public health. Rather curiously, the council's power to acquire and maintain public parks, gardens, and open spaces is also deemed to be a health matter and is conferred by the Public Health Act.¹ This power has been greatly widened by various subsequent statutes.²

The town council, from earliest times, has had power to acquire land for public purposes. It may acquire either by outright purchase or by long lease. It may sell, exchange, or lease any land not required for public purposes but must first obtain approval from the Ministry of Health. With certain reservations, the council has power to accept gifts of land donated to the city or bequeathed to it for eleemosynary purposes, such as sites for public libraries, museums, and other buildings. It may also acquire land against the will of the owner, by obtaining a provisional order and paying compensation in accordance with the statutory regulations. But land acquired for one purpose may not be used for another without permission either from Parliament or from the Ministry of Health.

2. The acquisition and use of land.

Fire prevention and fire protection come also within the jurisdiction of the town council, no matter how small or how large the borough may be. And in the exercise of its powers, the council is not subject to any higher administrative supervision unless it desires to borrow money for fire protection equipment, in which case the proposal loan must have the prior approval of the national authorities, as in the case of other loans. This branch of municipal administration, of course, does not bulk so

3. Fire protection.

¹Glen's *Law of Public Health and Local Government* (London, 1922), and Lumley's *Public Health Acts* (London, 1923) are the standard compilations of health statutes. Mention should also be made of B. G. Bannington's *English Public Health Administration* (London, 1915), and C. Porter's *Sanitary Law* (London, 1920).

²Notably by the Open Spaces Act of 1906 and the Public Health Act of 1925.

large in English as in American cities, because the fire hazard, due to the materials used for building construction, is so much smaller. Fire protection is one of the relatively minor functions of the English municipality and the per capita cost is not one quarter what it amounts to in America.

4. Housing.

Powers relating to the construction and maintenance of workmen's dwellings have been conferred upon the borough council by a series of general statutes, beginning with the Housing of the Working Classes Act of 1890. The council may appoint a housing committee and may include in the membership of this committee persons who are not members of the council; but these outsiders must not constitute a majority. The Housing Act of 1823 provides that when a borough council erects dwellings of a specified type and size it may obtain a contribution from the national treasury. As respects existing houses the council may order the owner to undertake alterations in the interest of health or safety, and failing compliance with its orders may itself have the alterations made at the owner's expense. It may also, under certain conditions, issue a demolition order and have an unsanitary or unsafe building removed.¹

5. Town Planning.

The borough council, again, is the local authority in matters of town planning. By the provisions of various Town Planning Acts the council is empowered to prepare a general scheme for the future development of the community.² If the borough has a population exceeding 20,000 the council has no option in this matter but must submit a plan to the Minister of Health within six years from January 1, 1923. A town planning scheme, when approved by the Minister of Health, has the same effect as an Act of Parliament. As a means of guiding boroughs and urban districts in the preparation of their plans the Ministry of Health has prepared a set of models covering streets, building lines,

¹ Useful books on the subject of housing are John J. Clarke, *The Housing Problem: Its History, Growth, Legislation, and Procedure* (London, 1920); Sir Kingsley Wood, *The Law and Practice with Regard to Housing in England and Wales* (London, 1922); John Robertson, *Housing and the Public Health* (London, 1919), and the volume on *The Housing Problem, Its Modern Aspects and Practical Solution*, by James Hartley and Albert Winstanley (London, 1918).

² Some of the best-known books in this field are Raymond Unwin's *Town Planning in Practice* (revised edition, London, 1919), George Cadbury's *Town Planning* (London, 1915), and H. C. Dowdall's *Local Development Law* (London, 1919). The last-named book is a survey of municipal powers in relation to planning and allied matters.

recreation spaces, and so forth. The work of carrying these plans into effect, after approval, is immediately entrusted to a town planning committee, which is appointed by the council. It usually includes the chairmen of various other committees (e.g. parks and cemeteries, highways, housing, and sanitation) together with various other aldermen and councillors. This committee has no final powers but merely recommends matters to the whole council for action. Town planning schemes are customarily financed by borrowing money and the bonds may be spread over a period not exceeding eighty years. For all such borrowings the approval of the Minister of Health is required.

6. Municipal trading.

By a series of general statutes, adoptive acts, private acts, and provisional orders the town councils of English boroughs have been invested with power to construct or acquire and to operate gas plants, electric lighting plants, and street railways. Or, if the councils prefer, they may grant franchises to private companies for these services. Municipal ownership of public utilities has made a great deal of progress in England during the past fifty years. About forty per cent of the gas plants have been municipalized, about fifty per cent of the electric lighting systems, and about sixty per cent of the street railways.¹ When a public utility is owned and operated by the city the council does not directly conduct the management but devolves this work upon one or more "trading committees" which function through managerial officers. Thus there may be a waterworks committee, a gas committee, an electricity committee, and a tramways committee—each of which deals directly with the manager of the plant under its control. The actions of all these committees, however, are subject to confirmation by the council.

7. Other functions.

Town councils have a variety of other administrative functions. They may provide public baths and washhouses, cemeteries, libraries, museums, and art galleries. They have been given various functions with respect to the registration of lodging houses, the inspection of food and milk, the regulation of slaughter-houses, the inspection of factories and workshops, the maintenance of baths and washhouses, and the erection of public

¹ There is no recent study of the methods and results of municipal trading in England. The latest work of any value is Douglas Knoop's *Principles and Methods of Municipal Trading* (London, 1912). Some up-to-date figures can be found in the annual issues of the *Municipal Yearbook of the United Kingdom*.

buildings. They provide for the lighting and cleaning of streets, the upkeep of bridges, and for the management of the harbor, when there is one. The largest expenditures are those which come under the head of education, but considerable amounts are expended by the bigger boroughs for public works, highways, the protective services (including police and fire protection), the care of the public health, and the maintenance of buildings.

8. Appoint-
ments.

Finally, as will be explained a little later, the council appoints virtually all the higher officials of the borough. It chooses the mayor and all the principal administrative officers, such as the town clerk, the surveyor or borough engineer, the fire chief, the medical officer of health, and so on. It controls the choosing of all subordinate officials and employees. The only officials who are not responsible to it are the three borough auditors (two of whom are elected by the people and the third appointed by the mayor), together with the chief constable, who is technically responsible to the watch committee. Officials who are appointed by the council may also be suspended or removed by it at any time, but with the reservation that where the national government gives a grant-in-aid for the payment of a borough official's salary, the approval of some designated central department must be had before he can be removed.

In
general.

All in all, then, the English town council has a vast and varied assortment of powers. Its authority is far more extensive than that of the average city council in America. For the English town council is not restricted by constitutional limitations, statutory prescriptions, tax limits, debt limits, and civil service regulations. Its actions are subject to no mayor's veto. It is not prevented by charter provisions from creating new administrative departments or abolishing old ones. It can have five departments or fifty—as it pleases. To the American observer this dominating place which the English town council occupies in the affairs of the community is the most salient feature of the English municipal system. Being an alderman or a councillor in an English borough is no sinecure. It involves service on at least one committee, and sometimes on two or three. In the larger boroughs it involves work on subcommittees also. A councillor may have two or three meetings a week, occupying many hours of his time. Yet both aldermen and councillors serve without pay. In American cities, with much less work to do, they get regular salaries.

A word may perhaps be added concerning the somewhat peculiar organization of the council in two English cities, Oxford and Cambridge. In Oxford it is provided by special act that nine of the forty-five councillors shall be elected by the university and the colleges.¹ Of the fifteen aldermen, three are chosen by the councillors and aldermen representing the university and the colleges. In Cambridge also, by special provision, the university and the colleges are given representation in the town council—six of the thirty-six councillors and two of the twelve aldermen. The methods of electing these representatives and their qualifications are minutely prescribed. In Aldershot, which is a great military headquarters, the national War Office appoints three members of the borough council.

The special case of Oxford and Cambridge.

¹52 Victoria, chap. xv. Three are chosen by the university in convocation, six by the heads and senior resident bursars of the colleges.

CHAPTER VII

THE TOWN COUNCIL

ITS ADMINISTRATIVE WORK

An Anglo-American contrast.

Books on municipal government in the United States usually contain a chapter on the mayor. And he deserves a chapter, for he is an official of great importance.¹ The mayor of New York City is the most powerful municipal officer in the world. A cynical English observer has remarked that American cities have the monarchical form of government; the mayor being a monarch, he says, if ever there was one. He has more real power than any European monarch now possesses.² And it is true that the existence of a strong, independent, unified executive is the most distinctive feature of city government in America. Nothing of the sort is to be found in English cities. There is a mayor, but he is neither independent nor powerful. He has no special executive functions. He has no definite administrative responsibilities.

The English mayor.

History of the office.

The mayor's office in England is a very ancient one but it has never, at any time, possessed the broad range of authority that belongs to it in the United States. There were no mayors in the boroughs of Saxon England, and the office does not seem to have been brought in by the Normans. No borough charter contains any mention of a mayor until 1215, when King John's grant to London permitted the citizens to elect one.³ What

¹This does not hold true, of course, in American cities which have adopted the commission form, or the city manager form, of government: but these are mostly small cities. Among the fifteen largest American cities Buffalo is the only one with the commission type and Cleveland the only one that has a city manager.

²Hilaire Belloc, *The House of Commons and the Monarchy* (London, 1920), p. 185.

³Sciatis nos concessisse . . . baronibus nostris de civitate nostra Londonie quod eligant sibi majorem de se ipsis singulis annis qui nobis fidelis sit, discretus et idoneus ad regimen civitatis . . . (Know ye that we have granted . . . to our barons of our City of London that they may elect for themselves a mayor each year, who shall be loyal to us, and discreet and qualified for the government of the city . . .). Adolphus Ballard, *Borough Charters* (Cambridge, 1913), p. 247. But although there was only one

his powers were at this early stage we do not know, but in all probability they were of relatively little account. He presided over the borough court in some instances and may have had a hand in enforcing regulations made by the aldermen. Nor did the powers of the English mayor increase with the lapse of time, as they have done in America. Down to the time of the great municipal reform in 1835 he remained an official with more prestige than power and very little new authority was given to him by the comprehensive legislation of that year. The functions of the English mayor have altered considerably with the growth of the boroughs, but his general relation to borough government, his place in it, and his lack of independent authority—these things have not substantially changed in seven centuries.

The English mayor of today is the titular head of his city, the chief citizen although not the chief executive. He is chosen each year on the ninth day of November by the aldermen and councillors sitting together. The choice may be made from among their own number, or an outsider may be chosen provided he has the legal qualifications which are laid down for membership in the council.¹ Usually the council makes the selection from its own ranks, but not always. The selection of some distinguished outsider is by no means uncommon. A mayor may be re-elected at the close of his one year term and re-elections are not uncommon, but the general tendency is to look upon the post as an honor that ought to be passed along. The mayor is not regarded as an "official" of the city and is not expected to be a man of executive or organizing ability.

How the
mayor is
chosen.

The selection of a mayor is an easy matter in most English cities, for the work which he is expected to do is neither arduous nor complicated. He presides at council meetings, when he is present, but he does not need to know the rules because the town clerk or town clerk's assistant sits close at hand and can prompt him when in doubt. It is the town clerk, indeed, who keeps the whole mechanism in running order. He gets the busi-

His duties.

mayor definitely mentioned in the charter rolls of this period, certain writs appear to have been addressed by King John to the mayors of other cities, thus indicating the somewhat general existence of the office. See *Ibid.*, p. lxxxvii.

¹When an alderman or a councillor is chosen mayor his seat in the council does not thereby become vacant and a special election is not rendered necessary. The mayor remains a member of the council with a vote on all questions.

ness into shape for the council's consideration and he straightens out the procedure whenever it gets into a tangle. An incompetent town clerk would soon get things into a muddle, but if this official knows his business (as he usually does) it matters little what sort of personage the mayor may be. In some ways it is more satisfactory to have a man of unaggressive personality in this post, for the council is sure to resent any attempt at dictation from the chair. A good mayor, on the other hand, ought to be a presentable person capable of saying "a few well chosen words" when these are required at any public function. If he has a long purse, so much the better, for the mayor is expected to entertain distinguished visitors, to assume a prominent share in all civic festivities, and, above all things, to be interested in various local philanthropies or other good causes. The lord mayor of Manchester, in a publication recently issued by that city, gives a summary of what he was expected to do in the way of attending receptions, dinners, luncheons, teas, and so forth during his term of office. During the winter months they kept him busy for twelve hours a day. To make matters worse, a speech was expected from him at each function.¹

His qualifications.

Apparently the chief qualifications of an English mayor are that he shall be affable, voluble, generous, and have good digestive apparatus. Generosity is important, for every subscription list comes first to him for his name and contribution. "In the overwhelming majority of cases", says a recent writer, "the person who has accepted the office of mayor and has carried out his duties in conformity with the wishes of high-spirited citizens, is left many thousands of pounds poorer in pocket."² One should not forget the mayoress, or lady mayoress. She accompanies her husband to most of the social functions.

An unpaid office.

The English mayor receives no salary although he has a full-time job on his hands. The city council is authorized to grant him "such remuneration as it may think reasonable", and a sum of money is customarily appropriated to cover his official expenses, but rarely is it sufficient to do even that. It has sometimes been said that "a wealthy peer makes an ideal English mayor", and if there is anyone with these qualifications in the

¹ Matthew Anderson (editor), *How Manchester Is Managed* (Manchester, 1925), pp. 4-6.

² C. F. G. Masterman, *How England Is Governed* (New York, 1922), p. 80.

borough he is likely to be invited to serve. In default of a peer, some townsman of wealth and leisure may be requisitioned, particularly in boroughs where Labor has not yet gained control of the council. Where the Laborists are in a majority they usually, but not always, choose a mayor from their own ranks. Occasionally, moreover, the Conservatives in the council have chosen a Labor mayor. A few years ago it was predicted that if Labor mayors came into office there would be an end to the picturesque uniforms and bewigged flunkies, the official banquets and the mayoral processions. All these trappings of the office, it was said, would join the vanished pomps of yesterday. But such predictions have not been fulfilled. Labor mayors have been just as keen as any others in maintaining what they call "the dignity of the office".

Now while the English mayor is not the chief municipal executive in the American sense, this does not mean that he takes no active part in the administration of the city's affairs. Besides presiding over sessions of the council he is *ex officio* a member of all its committees and usually performs service on one or more of them, especially on the watch committee. He may even be chairman of some committee, although this is not usual. He can at any time leave the chair, by calling upon the deputy mayor or some other member of the council to take it temporarily, and may address the council from the floor.¹ But he has no veto power over resolutions of the council, makes no appointments,² takes no special part in the preparation of the municipal budget, and exercises no direct control over any of the civic departments. He is a justice of the peace during his term but rarely performs any judicial functions except in the smaller boroughs. On the other hand, he must run up to London from time to time and sit through a dreary session in the rooms of some private bills committee which is considering measures of importance to his borough. He must confer with deputations from the county council, or from some neighboring district council or city. He must listen to men and women who have real or fancied griev-

The
mayor's
part in ad-
ministra-
tion.

¹ The deputy mayor is an alderman or councillor appointed by the mayor to act during his absence. But he does not take the chair at council meetings, in the mayor's absence, unless the council requests him to do so.

² The sole exception is one of the three auditors (see *above*, p. 130). In case the office of town clerk becomes vacant, however, the mayor may make a temporary appointment, pending action by the council.

ances of all sorts—for that is one of the penalties of prominence. He must spend certain hours of each day in his office at the town hall (the mayor's parlor, as it is called) listening to a recital of the community's troubles. He makes a note of each complaint and promises to transmit it to the proper authorities. The average citizen seems to think that the mayor can give redress on his own authority—which, of course, he cannot. Now and then, however, a mayor of the energetic type sets out to do things on his own initiative and occasionally, but not often, he is successful. Joseph Chamberlain did it as mayor of Birmingham fifty years ago. They called him "the American mayor" and his administration commanded wide attention because it was exceptional. Incidentally it stirred up much opposition.

The
mayor's in-
fluence.

Even while keeping within the strict bounds of law and usage, however, the mayor can be a good deal of a leader in borough affairs. It depends upon his own good sense and tactfulness. He can intervene to smooth out difficulties, to take the kinks and knots out of committee work. In the intervals between meetings of the council he is often called upon to settle questions of a seemingly minor but urgent character, and much depends upon the good judgment with which he does such things. He may impress the council with his sagacity, or may soon gain a reputation as a bungler. The way in which he uses his influence, not his power, is the measure of a mayor's success. He is not a figurehead unless he chooses to be one.

Standing
com-
mittees.

The work of borough administration, then, is not performed by the mayor but by the council, largely through its standing committees. The laws require that every town council shall have certain standing committees—more particularly the watch committee and the education committee,—which are known as statutory committees;¹ but it may have as many others as it pleases and a large council usually has a dozen or more. They are called standing committees because they remain intact throughout the year, dealing with all matters that arise from

¹ The former is rendered obligatory by the Municipal Corporations Act of 1882, the latter by the Education Act of 1902. In addition, various other standing committees have been made compulsory by later Acts of Parliament, e.g. committees on pensions, on the relief of distress, on maternity and child welfare, on allotments, etc. A table showing the organization, etc., of these various committees may be found in Appendix xxi of the *Minutes of Evidence Taken Before the Royal Commission on Local Government* (London, 1923).

time to time within their allotted spheres of jurisdiction. Liverpool, for example, has fourteen standing committees, Manchester eighteen, Birmingham eighteen, and York twelve.¹ Other committees, commonly known as special committees, are organized as occasion may require and are assigned such duties as the council may determine, notably the promoting of private bills before Parliament. The standing committees have regular meetings but the special ones convene only when necessity arises. A standing committee may have sub-committees to which it delegates some of its work. These sub-committees report, of course, to the main committee and not directly to the whole council.

Special
com-
mittees.

Sub-com-
mittees.

Every councillor and alderman is appointed to at least one of the standing committees and may serve on two or three. By custom the mayor is a member of them all, but he rarely takes part in their deliberations unless some very important matter (more particularly some financial question) is being discussed. In addition the council annually appoints some of its members to sit as representatives of the borough upon joint committees with members of the county council. These joint committees are intrusted with the supervision of certain enterprises that are of common interest to county and borough alike,—for instance, the protection of waterways from obstruction and pollution. Finally, the council, in order to facilitate its business, frequently resolves itself into a "committee of the whole"; more particularly when the annual budget is under consideration item by item. Some English councils have pursued the plan of putting all the members of the council on the finance committee. This does away with the need for considering the budget in committee of the whole.

Joint com-
mittees.

Commit-
tee of the
whole
council.

In the selection of its committees the English town council pursues a very different method from that usually followed in the cities of the United States. In America, as is well known, the naming of council committees is almost invariably the prerogative of the presiding officer; in England this privilege is jealously reserved by the council itself. It is the custom of the English

Methods of
constituting
committees.

¹ The more important committees (in addition to the watch committee and the education committee) are those on finance, highways, water supply, sewerage, property and lands, markets, buildings, parks, fire protection, gas, electricity, and tramways. In addition the council usually has a "general purposes" committee which arranges business for the regular meetings and performs any other functions allotted to it by the council.

council to appoint, at its November session, a committee of selection which reports to the council a slate of standing committees for the year.¹ This list of committees is then laid before the council and may be changed by a majority vote of that body, although no important alterations are usually made. But if a member of the council asks to be relieved from service on some committee or to be transferred from one committee to another, his request is sometimes granted.

The committee of selection is almost certain to be composed in major part of members who belong to the same political party as the majority of the council, and it makes sure that a majority of the members of each important standing committee also belong to the dominant political party. Sometimes the slate of committees is prepared at a caucus of those councillors and aldermen who represent the majority party and the report of the committee of selection thus becomes a mere formality. The charge has sometimes been made that councillors who are interested in the liquor traffic try to obtain places upon the watch committee in order that they may influence the work of the police to their own advantage, but there are no indications that they succeed very often. It is doubtless true that committees are not always constituted with an eye single to the best interests of the whole community. Partisan and personal considerations count for something. A disinclination to make drastic changes in the composition of the committees from year to year is also a factor.

When an alderman has been on a committee for several years and wants to stay on it, the general tendency is to let him stay even though his work leaves something to be desired. Very rarely, at any rate, is a standing committee entirely reconstructed at the beginning of the year. For the most part it is merely a matter of assigning newly elected councillors or aldermen to the vacancies. Hence it is not uncommon for a man to serve on the same committee for a dozen years or even more. An alderman or a councillor who displays a genuine interest in the work of his committee, and develops familiarity with its affairs, is likely to be left on it so long as he remains a member of the council, unless he requests a change. In this way the more important standing committees become quasi-permanent in their

¹ In lieu of a committee of selection, the work is sometimes assigned to the general purposes committee.

The committee of selection.

Its composition.

Influences which operate in the construction of committees.

Permanence of committee memberships.

membership, which is one of the reasons why they are so competent in the handling of business.

The number of members assigned to the standing committees is dependent upon the size of the whole council. In the larger boroughs important committees sometimes include as many as twenty aldermen and councillors, and rarely fewer than eight or ten. The number is fixed, in each case, by the standing orders of the council. Its discretion in the matter is subject to no statutory limitation except the provision that the watch committee shall not include more than one third of the council's entire membership.¹ A committee usually includes both aldermen and councillors, and neither by law nor by custom is any fixed proportion maintained between the two classes of members; but since the councillors are thrice as numerous as the aldermen in the council as a whole, it naturally follows that they are in the majority on all committees. This is of no significance, however, for the powers of all committeemen, whether aldermen, councillors, or outsiders, are exactly the same.

Size of
commit-
tees.

In the case of certain committees, the council goes outside its own membership. The education committee, for example, must contain a number of outsiders who are experienced in education, and some of these must be women. The laws require that aldermen and councillors shall be in a majority on this committee; the remaining members are selected in accordance with a plan proposed by the council and approved by the national board of education. In the case of the pensions committee (made statutory by the Old Age Pensions Act of 1908), all the members may be taken from outside the council's ranks, but this is not usually done. The statutory committee on maternity and child welfare must have two thirds of its membership drawn from the council. The watch committee has no outside members and the same is true of the non-statutory committees in general.

Outside
members.

The plan of adding outsiders to the statutory committees has a good deal to be said in its favor. It enables the council to obtain, without cost, the advisory services of men and women

The use of
outsiders
on com-
mittees.

¹As a rule, however, it is much smaller. The Manchester watch committee, for example, has 23 members, that is, less than one-sixth of the council's entire membership. In the case of the education committee a scheme of organization is prepared by the council and submitted to the national Board of Education for approval. This scheme fixes the size of the committee.

who have special qualifications in such matters as education, child welfare, or mental deficiency. Care has to be taken to provide, however, that these outside specialists shall not form a majority of the committee. They must not be in a position to control its recommendations to the council. This is a wise precaution because friction usually results when experts outnumber laymen on public bodies. The specialist, as a rule, has scant respect for the layman's judgment and yet the judgment of an intelligent layman, even on rather specialized problems, is often superior. He may not know the technique, but on the other hand he is likely to be a better judge of human nature. No matter how technical any branch of public administration may be, it must always reckon with the human equation, that is, with the preferences, aversions, and reactions of the common man. The specialist tries to be logical and scientific—while human nature is neither. He should, therefore, be required to "sell his ideas" to a group of laymen before being allowed to put them into operation.

An
analogy.

English cities did not originate this practice of associating aldermen, councillors, and laymen on administrative committees. It is of German origin and has been used in German cities for more than a century. In that country it applies to all the administrative committees (*Deputationen*) and not merely to a few of them. The Germans regard it as one of the strongest features of their municipal system. In France and in the United States the plan has not been to associate councillors and outsiders on the same committees but to create advisory commissions, composed wholly of outsiders, to whom the council or its committees may submit any special problem for consideration and advice. Thus many American cities have advisory bodies in connection with the public library, city planning, public recreation, and sometimes public safety.

The
chairmen
of com-
mittees.

Each English committee has its own chairman, who is chosen by the committee itself. In selecting him, the committee is careful to pick the best qualified man, although preferably from the ranks of the majority element in the council. Quite naturally a committee wants a chairman who can get business done quickly and thus save the time of its members. If it chooses an incompetent chairman, its time will be wasted and the committee-men know it. Any member of the committee is eligible to be

chairman, but in practice the choice is more often made from among the aldermen than from the councillors—because the aldermen usually have had the longest service on the committee. In a few boroughs the standing orders of the council make provision that no chairman shall continue in his position for more than two successive years, but in most of the large municipalities the tendency is to keep chairmen in office so long as they will stay there. It often happens, therefore, that the chairmanship of a committee is held by the same alderman or councillor for a dozen years or more. The chairman presides at committee meetings, calls special meetings when they are needed, and is the regular medium of communication between the committee and the council.

No feature of English municipal administration has received less attention at the hands of foreign students than the work of the standing committees; yet none is so deserving of careful study, for it is quite the most noteworthy feature of the whole system. Strictly speaking, no standing or special committee (except the statutory committees) has any final powers whatsoever; their recommendations in every case require the council's approval. Some of the statutory committees have final authority so far as their own spheres of jurisdiction are concerned, except in the matter of levying taxes or borrowing money. This, of course, is a highly important exception, for without funds there is very little that a committee can do. On matters of importance, therefore, the statutory committees usually consult the town council before exercising the final powers which they legally possess.

Importance of committees in English municipal administration.

In certain cases, moreover, the laws permit the council to delegate final powers to committees, except in matters of taxation and borrowing. The power to tax and to borrow cannot be delegated. In many of the boroughs the council has turned over various things to some of its committees with full power, notably to the education committee. The administration of the borough school system necessarily involves a host of details concerning which the members of the council have neither knowledge nor interest. To have them all laid before the council in the form of recommendations would not only involve delay but a waste of the council's time. With the growth of the boroughs this practice of devolution is steadily spreading.

Delegation of final powers to committees.

Subordina-
tion of
commit-
tees to the
will of the
council.

In any case, when a committee reports its recommendation to the council, this recommendation is usually accepted. This should not be taken to imply that the council is under any obligation to adopt the recommendations of a committee or that its action in the matter has become a mere formality. On the contrary, the council frequently refers matters back to its committees with instructions to reconsider their recommendations, and sometimes the council amends a committee's report without referring it back. It is not safe to generalize on a matter of this sort, for there is a good deal of local diversity in the council's attitude towards its committees and it sometimes varies in the same city from year to year. Something depends upon the subject-matter with which the committee's recommendation is concerned. If it be a matter of routine, affecting only one department and establishing no precedent, the council almost always accepts the committee's advice; but if some question of general policy is involved there is no certainty of its doing this. That is why the chairman of a committee sometimes takes the precaution to sound out the leading members of the council and make sure of his ground before bringing in a recommendation. No chairman likes to have the recommendations of his committee rejected or amended. It is a rebuff that he tries to avoid.

The
council
is guided
by the
recommen-
dations of
its com-
mittees.

Summary.

Taking the work of administration as a whole, therefore, it can fairly be said that as respects the vast majority of matters that come before a committee, its decision is practically final. This is particularly so when the committee itself is unanimous. When a committee's recommendations are rejected it is usually because of a division in its own ranks and because some influential members of the council, outside the committee's membership, take the side of the minority. Such rejections are not common under normal conditions. So far, indeed, do the committees act upon this assumption of approval that they sometimes put their decisions into effect before reporting them to the council at all. They do not hesitate to do this in matters of urgency and occasionally in matters which are not urgent. This procedure is discouraged by the council, but it is common nevertheless.

Nature of
the work
performed
by com-
mittees.

Everything that comes up for determination by the council has passed through the hands of some committee. Most business goes directly to a committee before it is discussed in the council

at all. When any matter is brought to the attention of the council by one of its members, or through a petition presented by the ratepayers, or in a communication from some company, association, or public body, the first step is to refer the proposal or petition or communication to the appropriate committee. This is not done by the mayor as a matter of form; it always requires a motion in the council. If the matter be one of minor consequence, the committee may and sometimes does report upon it at the same meeting, but questions of importance are usually held over. Yet the larger part of the council's business originates with the committees, or, to be more accurate, it originates with the permanent officials, who lay matters before the committees. The relations between the committees and these permanent officials (such as the town clerk, borough engineer, chief constable, medical officer, etc.) are quite intimate, as will be shown in the next chapter. We say that the committee recommends when we really mean, in many cases, that the permanent official transmits a recommendation through the committee.

The jurisdiction of each non-statutory committee is defined in the standing orders of the council and any disagreement between committees as to the scope of their respective powers is decided by the council as a whole. It is the duty of the finance committee, for example, to prepare the annual budget for presentation to the council, to direct and superintend the keeping of all municipal accounts, to negotiate all loans of money which may from time to time be authorized by the council with the assent of the higher authorities, and to see that no monies are paid out of the borough treasury save by order of the committee or of its representatives. These important functions serve to make the finance committee the most important of all the standing committees. As has been said, it sometimes includes the entire membership of the council because no one is willing to be left off it.

Of the other committees, the property or estates committee has general charge of real estate belonging to the borough. Some English cities are large owners of real estate which has come to it by bequest and which is leased to private occupants. The health or sanitary committee superintends all provisions made by the borough for the care of the public health and the abatement of nuisances; its jurisdiction including such matters as the in-

Division
of work
among
them.

The
finance
commit-
tee.

The
estates
committee.

spection of lodging houses and the enforcement of factory laws. The watch committee has charge of the police force. The highways committee looks after the city's streets; the waterworks committee cares for the municipal water supply, and the parliamentary committee looks after the promotion of private bills in parliament. It also decides whether the council shall oppose such bills when promoted by others. Various "trading" committees are in control of the municipal gas, electric lighting, or tramway services, when these have been taken over by the city. The education committee now performs the functions which were, prior to 1902, intrusted to the local school boards. It supervises all matters connected with the system of public education, having full control over the buildings, the teachers, and the curriculum; subject, however, to the general regulations provided by the national board of education.

Mention has been made of the committee of the whole council. Like the House of Commons, the city council uses this procedure from time to time. The formal rules of procedure are dispensed with and business is done informally. Then, when an agreement is reached, the committee of the whole council "rises and reports," as the saying is—in other words, it transforms itself back into a council and reports to itself as such. This procedure is sometimes used in the larger boroughs as a means of shutting out the public, for the law provides that meetings of the council must be open but does not say anything about meetings of committees.

The trading committees are the ones that usually have to work the hardest. Every question connected with the operation of a municipal gas or electric plant must be considered and passed upon by the standing committee in charge; all contracts for the purchase of materials are virtually awarded by it, and it has a virtual control over the appointment and removal of officials connected with the particular service; for although the council can interfere, it usually does not. Here, more than anywhere else, perhaps, the committee is actively interested in the details of administration, for it is naturally anxious to have the enterprise make a good profit-showing at the end of the year. There is also a feeling that in order to avoid "bureaucracy" in these public services the members of the committee ought to examine and scrutinize everything that the technical officials

Other committees of importance.

The "committee of the whole council."

Growth in the administrative functions of committees.

recommend. Something also depends, of course, upon the measure of confidence which the committee reposes in the principal officials of the plant.

It is not within the scope of this volume to discuss the merits and defects of municipal ownership as shown by the experience of English cities.¹ But it is at least beyond doubt that the extension of municipal ownership to lighting and street railway systems greatly increases the amount of time which many of the councillors must give to their duties. A tramways committee virtually serves as a board of directors for the municipal street railway. It may have to meet once a week or even oftener and the committeemen (unlike company directors) get no remuneration for their services. Even the chairman of the committee, who is expected to give a large part of his time to the work, receives no pay. Much of the work is pure drudgery—such as the examination of plans and estimates, the analyzing of accounts, and the discussion of endless operating details. The manager or assistant manager of the plant is on hand to explain everything, but the committee cannot delegate its own responsibilities to him. It must make itself familiar with what is going on or it will be unable to justify its actions before the whole council.

Now it is easy enough to say that the committee, in this and other fields, ought to let the details alone; that it should concern itself only with matters of "general policy." Nobody will dissent from this proposition. But when you come to determine what things are mere details, and what things are not, you find that your proposition is difficult to apply. Details harden into precedents, and precedents build up a general policy. The borough surveyor may make some recommendation with reference to the building laws,—a change in the requirements that on the surface seems reasonable and anyhow of no great consequence. So his advice is accepted. Then he recommends some further requirement and eventually it begins to appear that the cost of building houses is being substantially increased by this succession of new requirements. Thereupon the committee begins to realize that details and general policy cannot be altogether dissociated. The appointment of an additional workman to

The difficulty of keeping committees out of details.

¹Those who are interested in this matter will find a discussion of it in the author's *Municipal Government and Administration* (2 vols., New York, 1923), vol. ii, chap. xliii, and in the accompanying references.

trim trees in the parks is of itself a mere detail, but it may raise the general question whether the parks are not already overmanned.

Public vs.
private
business.

One of the most discriminating students of English municipal government, in his testimony before a royal commission two years ago, expressed the opinion that the committees should merely lay down "the broad principles" and should let the expert official handle the details, "judging him strictly by results". This, he adds, is the system followed by commercial concerns.¹ Suggestions of the same tenor are frequently made in the United States also, and they have the ring of plausibility. The directors of a private enterprise, be it a factory, a bank, or a railroad, do not concern themselves with the minutiae. They appoint capable managers or superintendents and judge them strictly by the results. If the results at the end of the year are satisfactory, they feel that their abstention from interference has been fully justified. If the results are not satisfactory, they do not abandon the policy of non-interference; they get a new manager. Why shouldn't the municipal corporation conduct its affairs in the same way?

Why the
two are
not alike.

There is at least one very good reason why it should not and cannot. You can judge results objectively in the case of any business concern, but in the case of a municipality there is no way of doing it. The directors of an industrial concern know that the results are satisfactory if the output has grown, if expenses have been kept down, and net earnings increased. Their factory is in competition with others. They have definite standards by which they can measure their own success or lack of it. But the members of a city council have nothing of the sort. There is no way by which they can determine, objectively and with certainty, that their own police or fire department, their own schools, or their own public health service, is getting the maximum results for the money spent upon each, or anywhere near the maximum. It is all a matter of opinion—strongly influenced by local pride. How do you "judge the results" in the matter of fire protection? By the number of fires? By the annual fire loss? By the cost per capita? None of these tests is of any value. We judge the results by general observa-

¹ Mr. I. G. Gibbon, C.B.E., in *Minutes of Evidence Taken Before the Royal Commission on Local Government* (London, 1923), p. 76 (par. 184).

tion and, having no objective standards, we say that the results are good if they are not conspicuously bad. So it is with the schools. They yield an annual dividend, no doubt, but it is of an intangible, unmeasurable, sort. No one really knows whether it is as large as it ought to be. Talking with members of the education committee, one gets the impression that the results are everywhere at the maximum. Every borough in England (and every city in the United States) has the best schools in the country—according to local opinion. That is the trouble about judging by results—the judgment is largely or even wholly a matter of opinion, and the opinion of a council committee is worth nothing unless its members familiarize themselves with the details and become acquainted with the real nature of the problems involved.

English cities are asking too much in the way of unpaid service. This may not have been true when they were governed mainly by men of means and leisure—in the days before the war when the “governing classes”, by common consent, ruled both the realm and its municipalities. But Labor has now assumed a considerable part in local government and the wage-earner cannot give half his time to the city’s business without being paid for it. For this reason, if the existing system of committee administration is to be continued, it would seem inevitable that salaries will have to be provided, or, as an alternative, the work of the committees (and especially of the chairmen) must be reduced. And if the work of the committees is lessened, the responsibility of the permanent officials will necessarily be increased. This brings us to a consideration of the permanent officials who form the balance wheel of the whole municipal system.

Unpaid
service.

CHAPTER VIII

THE PERMANENT OFFICIALS

Expert and
layman.

"Of all the existing political traditions in England", says President Lowell, "the least known to the public and yet one of those most deserving of attention is that which governs the relation between the expert and the layman". Ostensibly, the work of managing the city's affairs is performed by amateurs, by men who have been elected by their fellow-citizens. But in reality a large part of it is done by professionals, by experts, by men who are not elected but appointed. Perhaps it would be more accurate to say that the work is done by both amateurs and experts, working in close coöperation. Take the control of the police, for example. Legally, the watch committee of the council has full jurisdiction over this branch of municipal administration, but as a matter of usage it is guided very largely by the advice and recommendations of the chief constable.¹ The chairman of the watch committee and the chief constable work together and usually agree. The relation between the two is not defined by the laws; it rests on custom or tradition; it is a matter of give and take which cannot be set down in black and white.²

So it is in the other branches of administration. The laws provide that the council has the ultimate power and responsibility, but convenience dictates that most of the council's work shall be delegated to committees. These committees, in turn, depend upon professional experts for advice and assistance. In this way the expert has become a highly important factor in English municipal administration. He exerts his influence quietly

¹ In England they do not use the term chief of police.

² By the Police Act of 1919 the Home Secretary is given power to make regulations as to "the government, mutual aid, pay, allowances, pensions, clothing, and conditions of service" of the members of all police forces. Four times each year, moreover, a copy of all rules and regulations made by the watch committee for the guidance of the local police force must be sent to the Home Secretary.

and inconspicuously in the committee rooms, and especially through the chairman of the committee. He is part of the invisible government in English cities.

The term expert is not popular with the average citizen nowadays. It is not popular, at any rate, in its application to government. Experts and professionals seem to savor of "bureaucracy", which is a word of ill-omen to those who do not understand what it means. But when we apply the term expert to a public official we use it in a special sense. We do not have in mind that a city official is, or ought to be, an expert in the sense that a surgeon or an oculist receives this designation,—that is, a specialist who does things in accordance with a technique which other people cannot comprehend. Any intelligent citizen can manage a municipal fire department or park department—after a fashion. The technical problems in many branches of the municipal service are not beyond the comprehension of any intelligent man who sets out to master them. They do not call for genius. But, on the other hand, they cannot be mastered without more time and thought than the average city councillor is able to bestow upon them. An expert in municipal administration, therefore, is merely a man or woman who, not by reason of any rare personal capacity but by active professional experience, has gained a better understanding of certain administrative problems than the average citizen is likely to possess. Experience is a slow teacher, but on the whole a very thorough one.

Every English borough has a staff of such experts, or permanent officials, roughly corresponding to the heads of departments in American cities. The smallest boroughs have three or four of them; the larger have a dozen or more. They include the town clerk, town treasurer, chief constable, fire chief, medical officer, sanitary inspector, surveyor of highways and buildings, clerk of works, manager of waterworks, manager of the municipal gas plant, superintendent of parks, and so on. All are appointed by the town council on the recommendation of the appropriate committee.¹ No competitive examinations are held, for in the American sense there is no "civil service system" in English cities.² Apart from the medical officer of health and

The meaning of the term "expert".

¹ The watch committee has final power in appointing the chief constable.

² For London, which is an exception, see *below*, p. 182.

the senior sanitary inspector there are no qualifications laid down by law. In the larger boroughs, however, it is the tradition that the town clerk shall be chosen from among members of the legal profession, and from the nature of things the borough surveyor is customarily an engineer. But the range of the council's discretion is large.

How are these appointees chosen? When a permanent official is to be appointed in any English borough the council advertises for applications. Such applications may be filed by non-residents as well as by residents. Each applicant is expected to set forth his qualifications and to submit testimonials. Thus an applicant for the position of borough surveyor submits recommendations from companies by whom he has been employed, just as he would do if applying for a position in any private concern. Men who are already in the municipal service must submit their applications like the rest. In other words, the council does what an American school board is accustomed to do when it wants a school principal or a school superintendent.

When the time for receiving applications has expired, the papers are turned over to the appropriate committee for consideration. The committee examines the testimonials that have been submitted, obtains outside information concerning the candidates, occasionally calls some of the stronger applicants for a personal interview, and finally makes its selection. As a rule it designates to the council not only its first choice from among the candidates but its second and third choices as well. The council usually ratifies the committee's action, although it may decline to do so or may rank the applicants in a different order. In general it can be said that when a committee has decided in favor of an applicant the appointment is practically settled.

Now members of the council are, for the most part, chosen on party lines, and since the various committees are often constituted on a partisan basis one may ask what there is to prevent the politicians from dictating municipal appointments in England as they do in most cities of the United States. No legal barriers stand in the way. There is absolutely nothing between English cities and the spoils system except sound municipal traditions and the good sense of the councillors. Usage and common sense are all that prevent a newly elected council from

How the principal officials are chosen.

Party influences almost wholly absent.

turning out borough officials from highest to lowest and putting others in their place.¹

On the other hand, it would not be correct to say that politics play no part in the selection of English city officials. Those who watch the proceedings of council committees in the larger English boroughs will soon be made aware that politics do play a part and sometimes a considerable part in determining the choice. When a post like that of town clerk or town treasurer is to be filled, it is tolerably certain that the appointee will be of the same political party as the majority of the council. It does not follow, however, that the appointee will be selected merely because he has rendered service to his party or that he will be incompetent to perform the duties of his position. Nor does it mean that the minority councillors will try to get him out of office at the earliest opportunity. Among the applicants for a position there are usually several whose qualifications do not appear to be very far apart. On a basis of their training and professional experience it is often difficult to rank one first and another second. Here the politicians come to the rescue. The friends of one applicant prove successful in their appeals to the committee on partisan grounds, and he gets the place. But such appeals would not be effective were their candidate clearly inferior to the other applicants in his personal qualifications.

But not
entirely so.

Without resorting to any elaborate legal safeguards, therefore, the English city has secured practically all the advantages which Americans have been trying to obtain by an intricate system of civil service regulations. English cities do not have a "merit system" of appointment—yet merit controls. They do not have laws to prevent the removal of officials without cause, yet such removals are virtually never made. There is no legal requirement that officials shall hold their posts permanently,—but they do. They remain in office during good behavior and efficiency. In a word, there is no spoils system in the English city because there are no spoils. Could one have a better example of the way in which traditions afford a more dependable safeguard than laws when it comes to protecting the public service?

Security
of tenure.

What are the chief permanent officials in English cities ex-

The chief
officials:

¹This is true of all officials except those whose salaries are paid in part by the national government.

1. The town clerk.

pected to do? The most important permanent official in the English borough is the town clerk.¹ Generally, although not always, he is a lawyer (barrister or solicitor) and serves as the legal adviser of the council. He has the custody of all the charters, deeds, leases, and other legal documents of the municipality; he must see that these are kept safe and that they are produced before the council when desired. It is to him that everyone turns for advice upon any matter concerning the legal rights and powers of the municipal corporation. He is the one man who seems to be thoroughly at home in the maze of legislative enactments, provisional orders, and judicial decisions relating to English municipal affairs. In America, when you want to know something about the statutory powers of the city or its officials, you go to the city's law department, which is headed by the city attorney, city solicitor, or corporation counsel, as he is variously called in different American municipalities. In England you go to the town clerk.

Legal duties.

When important litigation arises, the town clerk may be authorized by the council to employ some outside legal counsel to represent the city before the courts, but he is expected to prepare all the preliminary papers and to work up the case for trial. When the borough desires to promote a private bill in parliament, it is the town clerk who frames the first draft of the bill, gets the evidence in shape, employs parliamentary agents to argue for it before a private bills committee at Westminster, and goes there to see the matter through.² All the official correspondence of the city with other municipalities and with the central departments passes through his hands; and to his office belongs the task of preparing and transmitting the various reports which the Ministry of Health, the Home Office, and the other central authorities require from time to time. And when provisional orders are desired from any of these central authorities, the town clerk makes the application and prepares the data to be sent in support of the request.

Secretarial functions.

In addition to the foregoing duties, which are largely of a legal nature, the town clerk has many important secretarial functions. He is expected, for example, to attend all meetings

¹ For a full statement of the town clerk's functions see Arthur S. Wright's *Organization and Administration of the Town Clerk's Department* (published in Pitman's Municipal Series, London, 1923).

² Cf. *above*, pp. 35-40.

of the council and all meetings of its committees. In the larger boroughs there is too much of this work for any one man, so the town clerk is usually provided with one or more assistant clerks, or committee clerks, who attend the committee meetings for him.¹ It is expected that either the town clerk or his assistant shall record the minutes of all council or committee meetings, prepare all committee reports in proper form for presentation to the council, draft all resolutions, memorials, and by-laws that come before the council for its consideration; and act as the general factotum of the municipal authorities. In addition, the town clerk acts as registration officer for the borough in preparing the semi-annual register of voters. He employs the canvassers who go from house to house making up the list of voters. The mayor is responsible for the conduct of the municipal elections, but the town clerk's office does most of the work—making the announcements, preparing the ballots, taking care of the ballot boxes, and so forth. Not infrequently, too, the town clerk is *ex officio* clerk of the peace for the city and in that capacity has various additional duties, such as attending court, issuing naturalization papers, authenticating legal documents, and taking affidavits. And as though these multifarious chores were not enough, it is sometimes provided in the standing orders of the borough council that the town clerk shall “perform and carry out all other duties which may be required of him by the council, or which may hereafter be imposed upon him”.

Miscellaneous tasks.

The town clerk is usually the highest paid employee of the borough. Sometimes he is called the chief official of the municipal corporation, but he is not so recognized by the statutes or the municipal bylaws. At any rate his functions are more varied and more comprehensive than are those of any other permanent official. He is “the key man” in the municipal service, for the smoothness with which the whole machinery functions must depend largely on him. The town clerk, indeed, is the nearest approach to an American city manager that the English boroughs have. In many of the smaller municipalities he serves as the council's agent for maintaining a general supervision

Importance of the town clerk's position.

¹ Sometimes, however, the committee clerk is not a member of the town clerk's staff but holds an independent position. Sometimes, again, an important committee (like the education committee, or the watch committee) has a full-time clerk of its own. This is becoming the usual practice in all the larger boroughs.

over all the administrative departments. The council does very little without consulting him. But in the larger boroughs, and in some of the smaller ones as well, his influence is much more restricted, and the principal departments are not in any way under his general supervision. Much depends upon the personal qualities and competence of the town clerk and on his traditional relations with the town council. There is no uniformity of practice in the matter. In the larger boroughs the town clerk is usually a man of long experience in municipal work, for the large cities do not customarily appoint anyone to this office from private life. They either promote the senior assistant clerk or choose someone who has been town clerk in a smaller borough. The town clerk of a large city commonly finds room in his office for several "articled clerks", or apprentices as they might better be called. These are young men who serve without pay; in fact, they sometimes pay the town clerk for the privilege of working in his office. Then, when they have served their articled terms and have passed their examinations as solicitors, they either go into private law practice or look for positions as clerks in the smaller boroughs, expecting in time to gain promotion to the larger ones. Thus the town clerkship in England has become a career. The work is interesting, the pay is good, and there is a pension on retirement. For the successful town clerk in a large city there is sometimes the honor of knighthood as well.

A second permanent official, whose duties are of nearly equal scope and consequence, is the city surveyor or municipal engineer.¹ He superintends all construction and repair work carried on by the municipality. He is required to examine and report on all sites for proposed new buildings and all projects for the construction of new streets, sewers, parks, or squares. His office prepares the plans and specifications for any work which the city proposes to undertake; it superintends the laying of pavements, the building of sewers, and all similar undertakings. No money is paid for any work done by contractors except on the production of a certificate from the surveyor vouching that the work has been satisfactorily completed. The borough surveyor also arranges for the purchase of all materials needed;

2. The borough surveyor or engineer.

His duties.

¹The appointment of this officer is made mandatory in all boroughs by the Public Health Act of 1875 (38-39 Victoria, c. 55, par. 189).

he superintends the inspection of the materials when delivered and is responsible for seeing that the municipality obtains, both in quantity and quality, what it has bargained for. All the labor required on municipal works is hired under his supervision and all vouchers must bear his signature before any wages are paid by the town treasurer. Subject to the direction and control of the council, through its committee on public works or other appropriate committee, the surveyor concentrates in himself full responsibility in all matters relating to the construction and repair of city property. In the approval of plans, the award of contracts, and the general determination of construction policy, both the public works committee and the council are guided very largely by his advice.¹ At all meetings of this committee the surveyor is present and on all important matters his counsel is in demand.

Needless to say, all these duties are not performed by the surveyor in person. In the larger cities he has a considerable staff of assistants, including a clerk of works, engineers, inspectors, draftsmen, and foremen of various grades. These assistants are also permanent officials and are not removed when a new surveyor comes into office. When vacancies occur they are filled on the surveyor's recommendation, usually by promotion from the lower ranks in his department.²

The borough surveyor or engineer, like the town clerk, may be chosen from outside the municipality. The larger boroughs sometimes select their surveyors from among the smaller ones. It is becoming less common for engineers in private practice to transfer to the municipal service, and less common for municipal engineers to transfer to private practice. Municipal engineering has become, in England, a specialized branch of the engineering profession. The borough surveyor receives a salary which compares very favorably with that of engineers in company employ, and if he performs his duties efficiently he need have no fear of losing his position,—a consideration which enables him to look some years ahead in mapping out plans for municipal work. The Minister of Transport has been authorized

Special
aptitude
required.

¹ In English cities, contracts are always approved by the council—never, as in most American cities, by the mayor.

² The courts have held that an official may be dismissed by the council without notice, and without assigning any reason, if the council by majority vote chooses to take such action. *Wood v. East Ham*, N. J. P. 129 (1907).

by statute, and has recently undertaken, to pay one half the salaries of surveyors and engineers in charge of borough roads—but only on condition that appointments and removals shall be subject to his approval. Some of the boroughs have taken advantage of this arrangement which, in the course of time, seems bound to raise the standards of professional service in this branch of borough administration.¹ The position is one that requires a man of unquestioned integrity, for it is the surveyor who really determines the award of contracts, the hiring of labor, and the purchase of supplies. He has control of what we call “the patronage” in American cities. His actions in all such matters are subject to confirmation by the town council, it is true, but the council cannot well take time to study plans and specifications and contracts. From the nature of things, it is bound to be largely guided by the surveyor’s recommendations.

3. The borough treasurer.

The borough treasurer keeps the financial accounts of the municipality, receives all monies paid to the corporation, and pays them out when authorized by proper vouchers. His office is a statutory one and the appointment must be made under the corporate seal of the borough. No member of the town council is eligible and the position must not be combined with that of town clerk or elective auditor. In case of a vacancy the mayor may appoint an acting treasurer until the council fills the post. The courts have held that the treasurer is not merely the agent of the town council but is “in a fiduciary position towards the townsmen as a body” and hence cannot plead the orders of the council as an excuse for any action which is not lawful. He holds office “during the pleasure of the council” and may be removed by it at any time. The law requires that the treasurer shall make up the accounts of the borough at least twice a year and present them to the borough auditors, together with his vouchers and other papers. The accounts must be kept according to a form approved by the Ministry of Health. They are open to inspection by any member of the council. After the audit for the second half of the year, an abstract is printed for the information of the ratepayers. Although the treasurer plays no large part in determining the financial policy of the borough,

¹ As yet the number of boroughs which have availed themselves of this offer is not large. Most of them seem to fear that it would give “Whitehall” too much influence over the borough surveyor’s work.

he is frequently called upon by the finance committee of the council to give advice regarding advantageous times and methods of borrowing money and about many other such matters. No general statutory power is given the town council to define the treasurer's duties, but there is apparently nothing to prevent the council's doing so and in most boroughs it is done. In any event, his functions are now fairly well settled by usage. Some years ago, in an interesting judicial decision, the High Court of Justice discussed the position of the treasurer and summarized his usual duties.¹ In the larger boroughs the occupant of the post is usually a man of financial experience; he gives full time to the duties of his office and receives a substantial salary.

The chief constable is the head of the English city's police department, but his work comes directly under the supervision of the watch committee of the council. And this is no perfunctory supervision. The watch committee is an active body in all the boroughs, and its chairman is virtually the police commissioner of the municipality when he desires to be. The chief constable is a police officer by profession, and usually one who has risen from the ranks, either in the city which he serves or in some other city. The watch committee looks to him for expert advice on all matters of police organization and practice, but matters of general policy it settles in accordance with the judgment of its own members. Much depends upon the relations between the chairman of the committee and the chief constable. In some boroughs the chief constable is little more than an echo for the voice of the watch committee, with no scope for the exercise of his own initiative; in others, and perhaps in the majority, he possesses a good deal of freedom from direction and interference. There are instances in which he has carried his independence to the point of penalizing members of his force for having carried their grievances to the watch committee.²

All appointments to the police force are made by the watch committee, usually on the recommendation of the chief constable. They do not have to be confirmed by the town council. Suspensions and dismissals from the force are also determined by

4. The
chief
constable.

¹ *Attorney-General v. De Winton*, 70 *J. P.* 368 (1906).

² Raymond B. Fosdick, *European Police Systems* (New York, 1915), p. 53.

the watch committee but suspensions may also be made, for neglect of duty, by any two justices of the peace having jurisdiction in the borough. The watch committee frames the regulations for the organization and discipline of the borough police, but a copy of these regulations must be filed with the Home Secretary. These regulations permit the appointment of constables, or police officers, without any competitive tests such as are applied to applicants in most American cities. The English municipal police are not under "civil service rules" as Americans understand the term.

How the
English
police
system
functions.

An arrangement whereby the organization and work of the municipal police came under the immediate control of a council committee was at one time existent in most American cities. But it functioned very badly and has now been almost everywhere abandoned. In England it continues to work fairly well, although friction between the chief constable and the watch committee occurs at times. There are two reasons for the relatively smooth working of the committee system of police control in England; namely, the fact that the police officials do not dabble in local politics and, second, the system of central inspection. English police constables are not politicians; they let politics alone and do not get themselves drawn into political controversies. They are held to a certain degree of professional efficiency, moreover, by the inspectors of constabulary who make periodical visits on behalf of the Home Office. Down to 1919, as has been already mentioned, these periodical inspections did not amount to much, but they have become more rigorous since that date. If a watch committee interferes with the chief constable to the serious detriment of his work, the inspectors are likely to take note of it in their reports and a portion of the national subsidy may be withheld. Nevertheless it would be an advantage if chief constables were given more independence and a greater security of tenure than they now possess. Some years ago a royal commission recommended that the chief constables of all English cities be made irremovable except with the consent of the Home Office, but this change has not been made.

The Police
Federation
and the
Police
Council.

Until a few years ago the members of police forces in English cities had virtually no agency through which they could voice their grievances. In some boroughs they were better treated

than in others, so far as conditions of service were concerned, and this disparity of treatment led to much unrest. The Police Act of 1919, however, set up a body known as the Police Federation and at the same time made it unlawful for any member of the force to be a member of a trade union. The federation includes all ranks of the force below that of superintendent. It is authorized to consider and bring to the notice of the local watch committee or to the attention of the Home Secretary "all matters affecting the welfare and efficiency" of men in the ranks. It functions through branch boards and central committees. In addition, the Act of 1919 established a Police Council, which is made up of delegates from the federation on the one hand and representatives of the local authorities on the other. This council endeavors to adjust all general controversies.

The town council has nothing to do with the administration of local justice; that is, with the organization of police courts or the appointment of magistrates. In each of the larger boroughs there are one or more stipendiary magistrates, appointed by the crown but paid from the municipal treasury.¹ Their courts are known as courts of summary jurisdiction and have cognizance of nearly all minor misdemeanors, such as petty thefts or assaults and small breaches of public order, especially the violation of town bylaws. Only barristers of at least seven years' standing are eligible for appointment. The magistrates hold court each morning and dispose of cases in much the same fashion as the police justices in American cities. From their decision an appeal may be taken, in most cases, to the higher tribunals. In addition to its magisterial court, the borough may have its own court of civil jurisdiction for the trial of minor civil cases; but since the establishment of the county court system, no new courts of this type have been established. Many of the boroughs, on the other hand, have a separate "commission of the peace," as it is called. This is a grant of the right to have its own justices of the peace commissioned for the borough and exercising jurisdiction therein. But a separate commission of the peace does not exempt the borough from the county justices, unless the borough has also been granted the right to have its own court of Quarter Sessions. When a borough has

The
borough
courts.

¹In the smaller boroughs a Court of Petty Sessions is held by one or more unpaid justices of the peace, who are also appointed by the crown.

obtained the latter, it becomes virtually excluded from the jurisdiction of the county judicial authorities. In this case, however, the borough must pay the salary of a recorder or presiding official of the court, who is appointed by the crown, and also the salaries of a clerk of the peace and a coroner chosen by the town council. These various privileges, immunities, and obligations do not accrue to a county borough as such, but come by special grant.

Liquor
licensing.

The granting of liquor licenses in English boroughs is still controlled by the justices of the peace. If the borough has a separate commission of the peace and a separate court of Quarter Sessions, the granting or renewing of "alehouse" licenses is in the hands of this body; otherwise it is controlled by the justices of the county. In either case the work is done through a licensing committee of the justices and on their recommendation. The town council and the regular borough officials have nothing to do with this matter. It may seem strange that this function should be given to royal appointees whose work is mainly of a judicial nature, but it should be remembered that the justices of the peace were not, in their origin, judicial officers. Their work was largely administrative—building roads, maintaining bridges, and so on. Most of these administrative duties have now been taken away from them, but the licensing function they still retain. It is well that this should be so, for it helps to keep the liquor issue out of local politics.

5. The
medical
officer of
health.

The medical officer of health is an important figure in English municipal administration. Most of the smaller boroughs have a part-time official in charge of this work, but in the larger cities the position is on a full-time basis. The Public Health (Officers) Act of 1921 provides that the national government shall make an annual grant toward the salaries of a full-time medical officer of health and sanitary inspector of the boroughs, but in all such cases the appointment, remuneration, and removal of the official becomes subject to the approval of the Ministry of Health. This ministry does not give its approval unless the appointee is a fully qualified expert in public health and sanitation.

His duties.

It is the duty of the medical officer of health, and of the sanitary inspector, to enforce the national public health laws and the municipal health regulations. These laws and regulations

cover a wide range; they include not only the prevention of epidemics and the control of communicable diseases, but the inspection of meat, vegetables, milk, and fruit; the control of certain trades and industries; the supervision of hospitals and infirmaries, together with a long list of duties in connection with housing and town planning, health insurance, maternity and child welfare, the registration of nurses, and so on. The handling of all this work entails the employment of a considerable staff, including assistant medical officers, health visitors, analysts, bacteriologists, and clerks.¹ The term public health has a much wider significance in England than in America.

The sanitary inspector in an English borough is a subordinate of the medical officer, but in some instances he occupies a position of semi-independence, being allowed to deal directly with the public health committee of the borough council. In others he is not given this privilege but must communicate with the committee through his chief. As respects appointment and removal the sanitary inspector is on the same footing as the medical officer, that is, the borough council's action in either case must be submitted to the Ministry of Health for approval if half the official's salary is paid by the national government as is now usually the case.

6. The
sanitary
inspector.

The sanitary inspector, as his title implies, has functions in relation to the abatement of nuisances, the supervision of slaughter-houses, the inspection of lodging houses, and so forth. He is the right hand of the medical officer in these and many other fields of preventive health work. In the larger boroughs he has a considerable staff of assistants.²

Mention has been made of the borough auditors in England. Each borough has three of them, but they are not permanent officials in the usual sense. Two are elected by the people for a single year, but they are usually re-elected so that the position is virtually a permanent one. The third auditor is appointed by the mayor from among the members of the borough council.

The
auditors.

¹ Generally speaking, the appointment and remuneration of assistant medical officers are not subject to control by the Ministry of Health.

² The historical development of municipal sanitary inspection is explained in Sir John Simon's *English Sanitary Institutions* (London, 1897). The present legal requirements are set forth, in catechism form, by C. Porter in his *Sanitary Law* (London, 1920). See also the references given above, p. 55.

There is no legal requirement that the auditors shall be accountants or men of any training in the work which they are supposed to perform, nor are they usually men who have had such training. They receive no regular salaries but are given a per diem fee of one guinea for the time spent in auditing a portion of the accounts; namely, the accounts which relate to sanitary expenditures. Hence their work has not been of much value except in the smaller boroughs where the work of auditing is so simple that any intelligent layman can do it. Most of the larger cities have, therefore, made provision that the three auditors shall be assisted in their work by a certified accountant, appointed by the council and paid from the municipal treasury. Moreover, wherever the borough receives a grant-in-aid from the national treasury, the accounts relating to such grant are subject to audit by the district auditors of the Ministry of Health. With the extension of the grants-in-aid, therefore, the central audit of borough accounts is steadily widening. It now covers the expenditures for education in all the boroughs, also the expenditures on assisted housing projects. By special acts or by provisional orders, moreover, a number of boroughs have had all their accounts brought within the jurisdiction of the district auditors.¹ It is generally agreed that the jurisdiction of these district auditors ought to be extended to all the accounts in all the boroughs and doubtless this will some day be done.

Defects of
the
auditing
system.

Few things are less efficiently done in the average English borough than the auditing of its financial accounts. The auditors have no power to disallow any payments which the treasurer may have made under the warrant of the council or other proper authority, but they may call attention to any expenditure which they deem to be illegal. Occasionally they embody in their report to the council some suggestions for the improvement of financial methods or accounting, but more often the auditors' report is a perfunctory affair which enlightens nobody. When their audit has been concluded for the year, an abstract is prepared

¹These district auditors are skilled accountants employed on a full-time basis by the Ministry of Health and ranking as permanent officials of the national civil service. They audit all local accounts except those of the boroughs—the accounts of poor law unions, rural districts, urban districts, and counties. There seems to be no good reason for giving the boroughs any exemption.

and printed; this is not distributed to the ratepayers but may be had by them at a nominal price per copy.¹ In addition, the town clerk is required to transmit to the Ministry of Health a statement of the borough's receipts and expenditures, and the latter must annually lay before Parliament an abstract of these returns from all the boroughs.² By providing special forms upon which these annual statistics of revenue and expenditures must be made, the ministry has not only been enabled to lay before Parliament a digest of borough finances in comprehensive and comparable form, but has also secured some approach to uniformity in the methods of accounting used by the borough treasurers. The Ministry of Health has no right to dictate how borough accounts shall be kept, but it may call for financial statistics of any kind (especially in connection with applications for provisional orders) and its requests are much easier to comply with when the borough accounts are kept in a way which the ministry approves.

Besides the various local officers already named, a town council appoints such others as it is required by statute to appoint and as many more as it may deem necessary for carrying on the various administrative functions of the municipality. Every large borough has a long list of officials, some paid and some unpaid; some who give full time to civic duties, others who give but a small part of it. There is a fire chief, a superintendent of parks, a manager of waterworks, and a manager of the municipal gas or electric lighting plant. In every case the council is the appointing authority; in every case, also, it prescribes the duties of the officer and supervises his work. In no instance are such officials appointed by the mayor or elected by popular vote as in American cities.

Other
officials.

Subject to the control of the town council each permanent official is supreme within his own field of work. He is not sub-

Proposal
to provide
the
borough
with a
general
manager.

¹ There is no legal requirement that this abstract shall be published in the local newspapers; but it is, in the larger boroughs, usually printed in the annual year book of the municipality.

² See also *above*, p. 63. Various useful books on English municipal accounts, audits, and reports have been published in recent years. Among them, mention may be made of J. M. Allcock, *Municipal Accounts* (London, 1921); A. Collins, *The Audit and Organization of Local Government Accounts* (London, 1919); J. H. McCall, *Municipal Audits and Finance* (London, 1925); A. C. Roberts, *The Accounts of Local Authorities* (London, 1920); S. Whitehead, *Municipal Audit Programmes* (London, 1922), and the same author's *Municipal Accounting Systems* (London, 1924).

ject to the supervision of any other municipal officer, although in some boroughs, as has been said, the town clerk acts as a general coördinator of their work. Some Englishmen regard it as a weakness, this lack of any more definite liaison than the council itself provides. They point out that in the national government there is a prime minister who keeps all the central departments functioning in articulation, but that there is no general manager or unified administrative superior in local government. Various proposals have been made to give the town clerk a wider and more definite range of supervisory powers; and the Ministry of Health, in one of its recent annual reports, deemed this idea worth discussion, as follows:

"There appears to be room for consideration whether, while maintaining to the full the traditions of local government service, and, especially, of democratic control, the time has not come for some further development of the administrative arrangements of the local authorities, and for their having one chief official who, whatever his title, shall be in a position of definite responsibility for the general official organization."

"It may be premature to express any decided opinion on this possible development, but the question clearly merits attention. Two conditions would have to be fulfilled: (1) the unquestioned control of the elected body, and, (2) no derogation from the responsibility of the present principal officers. The value of any such chief official as has been suggested would depend very largely on his exercising general control, on his not attempting to do the detailed work of officers expressly appointed because of their specialised qualifications, and on his working in full harmony with them."¹

The report goes on to suggest that the appointment of "some one officer definitely responsible for the general supervision of the business of the local authority" would probably be better than merely extending the functions of the town clerk. In other words, it seems to be the thought of the ministry that the establishment of a post somewhat distantly akin to that of the city manager in America might be worth considering. On the other hand, it has been pointed out by an official of the health ministry that the city manager plan, with the wide power of appointment which goes with the post in the United States, has

¹ *Fifth Annual Report of the Ministry of Health* (London, 1924), p. 62.

no chance of adoption in Great Britain, for it would be alien to the constitutional traditions of the British people.¹

At any rate, the fact that such suggestion has been made and deemed worthy of discussion in an official report affords an indication that the system of administration by council committees and unarticulated officials is by no means regarded as incapable of improvement.² It is likely to become less satisfactory as the business of the borough grows more extensive and more complicated, as it is bound to do. The English borough is steadily becoming a business organization rather than a unit of government. This being the case, it is not improbable that Englishmen will gradually realize the force of the argument that the control of its services should be approximated to that of a business corporation.

In addition to its higher officials of administration, every large English city has its staff of lower officers and employees, ranging from chief assistants down to the unskilled day laborers of the highway and sewer departments. The number of such employees depends not only upon the size of the municipality but to an even greater degree upon the policy of municipal trading. Strictly speaking, all these employees—and in the largest cities their numbers run far into the thousands—are appointed by the council, but the real choosing is done by its committees acting on the recommendations of the higher officials. There are no civil service competitions, no eligible lists, no veterans' preference laws—none of the things which are characteristic of lower appointments in American cities. The council, through its committees, appoints whom it pleases and removes them at will. To this generalization, however, there are some exceptions. Certain committees, in some of the larger boroughs, are adopting the practice of requiring all applicants for clerkships to pass a qualifying examination. In other boroughs the candidates for certain positions are required to possess the diploma of the Institute of Municipal Treasurers and Accountants or of the

The
municipal
employees.

¹ See the article on "The City Manager in the United States," by I. G. Gibbon, C.B.E., in the *Journal of Public Administration*, January, 1925, p. 46.

² The city manager idea has also had a good deal of discussion in those English periodicals which concern themselves with local government problems. See, for example, the *Municipal Journal* (July, 1924); the *Local Government Journal* (September, 1924); and the *Local Government News* (December, 1924).

National Association of Local Government Officers. These associations have devised qualifying tests of professional competence or general education for the various fields of municipal work. It has been suggested that all the boroughs ought to adopt the practice of restricting the appointment of subordinate officials to persons who have passed such tests, but there is no probability that this will be done in the immediate future.¹ Meanwhile the councils are virtually free to appoint whom they will.

How the
system of
patronage
works in
practice.

A system which vests such an enormous amount of patronage in the hands of a large council, allowing this body to exercise its appointing power through its committees with no restrictions on their discretion and with apparently no centralization of responsibility for appointments, good or bad,—such a system would seem on its face to render easy the debauchment of the city's entire working force for partisan ends. Nothing of the sort has taken place, however; for, although personal and partisan considerations occasionally assist men to places on the borough payroll, public opinion has held the councillors to a general observance of the principle of non-partisanship. To appoint a man who is not qualified, or to dismiss a municipal employee without proper cause—these things offend an Englishman's sense of fair play. And in truth they ought to do so, for they are the very negation of fairness. The spoils system, wherever it exists, is unjust to the municipality, to the holders of office, and to the applicants for office. England is fortunate in having avoided it.

A word should be said about the organization of municipal employees in British cities. Most of the employees are organized into professional associations which are virtually trade unions. The Police Federation has already been mentioned. In addition there is the Association of Rate Collectors and Assistant Overseers, the Institute of Municipal and County Engineers, the Institute of Municipal Treasurers and Accountants, and (most comprehensive of all) the National Association of Local Government Officers, commonly known as "Nalگو". These bodies seek to promote the interests of their members in a variety of ways, including the presentation of grievances to the local authorities.

¹ For a discussion of this whole question see the booklet by William A. Robson, entitled *From Patronage to Efficiency*, published by the Fabian Society (London, 1925).

Some years ago an attempt was made to make the Whitley Council system function in relation to municipal employees.¹ A national joint council, representing both the employees and the local authorities, was established in 1920, but it did not function well or continue in existence long. In the following year many of the local authorities became dissatisfied, withdrew their representatives, and thus led to the abolition of the council. Several attempts to re-establish it have thus far failed. But in many of the boroughs there are local joint committees, representing both the employees and the borough council. In addition, there are a few provincial councils, which cover approximately the area included in an administrative county. These joint committees and provincial councils have accomplished a good deal in the way of having the grievances of employees redressed, besides affording a channel for the making of agreements in respect to pay, hours of work, promotions, and so forth in the municipal service.

¹The Whitley Council Plan was devised in 1916 by a committee of the British Ministry of Reconstruction which had been appointed, under the chairmanship of Sir Charles Whitley, to investigate the relations of employees and employers in industry and to recommend means of improving these relations. In 1917 this committee recommended the establishment of (a) Works Committees in factories and shops, these committees to be representative of both the employees and the management, (b) District Councils representative of the trade unions and employers' associations of particular industries in the various districts, and (c) National Industrial Councils, representative of the trade unions and the employers' associations for particular industries for the entire country. This whole system of Whitley Councils was expected to afford a means of bringing both sides into regular conference, with a better understanding of each other's point of view, and a consequent facility for adjusting all questions at issue between them.

CHAPTER IX

THE GOVERNMENT OF LONDON

Early
London.

In Roman
and Saxon
times.

London
under the
Normans.

London bulks large in all branches of English life and has done so for at least a thousand years. The beginnings of this city go back into the pre-Christian era, for when the Romans invaded England in 55 B. C. they found a community of Celts entrenched on a hill overlooking the marshy shores of the Thames, now known as Ludgate Hill. They made this location their headquarters, called it Londinium, fortified it, and built a considerable town between the hill and the river. But when the legions were withdrawn from the British islands in 410 A. D. the place was left defenceless; it was raided by marauding bands from across the North Sea, pillaged and ultimately reduced to little more than a heap of ruins. Later, when the Saxons permanently established themselves in England, the town was rebuilt and its trade revived. Alfred the Great, foremost among the Saxon kings, improved and fortified London during the closing years of the ninth century. It became the metropolis of the kingdom and has remained so ever since. When William the Conqueror came to England with his invading army in 1066, London was a town of perhaps three thousand inhabitants.

The Conqueror treated London leniently, for the Londoners did not resist the taking of the city. He confirmed the charter which the townsmen had received from the last Saxon king and in many ways aided the growth of the place, especially by encouraging trade with Normandy. London, however, did not at once become the political capital of Norman England. William the Conqueror had no fixed capital. The capital was wherever the king happened to be—at Westminster, at York, at Canterbury, or at St. Albans. But in the course of time it became the custom to hold all the meetings of the great council at Westminster and this city became the seat of Parliament. Westminster and London were neighbors, a few miles apart, but the

steady growth of the metropolis eventually swallowed up the parliamentary capital.¹

London, during the middle ages and the early modern era, passed through many tribulations. It was ravaged by plagues and scourged by fire. The Black Death, in the fourteenth century, carried off one quarter of the city's entire population within a single year. During the Wars of the Roses the metropolis managed to escape much injury at the hands of the rival factions, but it could not refrain from taking sides in the Civil War. Luckily, as matters turned out, it sided with parliament against the king. But when the Stuarts were restored it got into trouble with the monarchy and in 1683 its charter was taken away. Meanwhile, in 1666, a great conflagration reduced most of the place to ashes. Sir Christopher Wren, the architect who designed St. Paul's Cathedral, made a new city plan with provision for wide streets and great plazas, but the London authorities thought it too drastic in its demands for street space and cast it aside. The city was rebuilt for the most part along the old lines and London lost her unique opportunity to have become the best-planned among all the world's great cities.

London during the middle ages and in early modern times.

We know a great deal about the growth of London, its institutions and its life, in Tudor and Stuart times. John Stow has given us an elaborate description of the city as it was in the days of Shakspeare.² The gossipy Pepys, in his world-renowned *Diary*, has told us much about London in the mid-Stuart era.³ His description of the great fire of 1666 has become a classic. And many other chroniclers have left us their surveys. One need only read Macaulay's most famous chapter to realize how intimate is our knowledge of London, as a city, nearly three hundred years ago.⁴ The city busied itself with politics while neglecting its primary obligations to cleanliness. Filth reigned

¹The best constitutional histories of London are George Norton's *Commentaries on the History, Constitution, and Franchises of the City of London* (third edition, London, 1869), and G. L. Gomme's *Governance of London* (London, 1907). The long series of London charters may be found in Walter de Gray Birch's *Historical Charters and Constitutional Documents of the City of London* (London, 1887).

²*A Survey of the Cities of London and Westminster, and the Borough of Southwark: Containing the Original, Antiquity, Increase, Present State, and Government of Those Cities. Written at First in the Year 1598 by John Stow, Citizen and Native of London* (sixth edition, London, 1754-1755).

³*The Diary of Samuel Pepys*. There are many editions.

⁴*History of England*, chap. iii. The best edition is that of C. H. Firth (6 vols., London, 1914).

supreme and the narrow streets were like open sewers. The great fire was a blessing in disguise, for it at least disinfected the city and there were no more plagues. It also marked the decline of the city as a residential center and its conversion into a place of business.

London, when Columbus discovered America, had grown to be a place of about 40,000 inhabitants. Not all of those, however, were within the limits of "the city". Many were living in parishes outside the historic bounds. And these surrounding parishes grew more rapidly than the city itself. By 1700 the whole metropolis (city and parishes together) had a population of over 500,000 and before the eighteenth century was at an end London had passed Paris in size, thus becoming the world's largest city. London entered the nineteenth century with a million inhabitants—and the twentieth with more than five million. Today the population of metropolitan London is around seven millions. So one Englishman in every five is a Londoner.

But what is London? The student of municipal government is nonplussed when he reads that the City of London had a population of 32,000 at the last census. But if he makes inquiry he will be told that the County of London contains five million people and the London metropolitan district contains seven million. In other words there are three Londons which differ in area, in population, and in government.¹

The City of London is merely the ancient core of the modern leviathan. It is the municipality which began as a Celtic hamlet on Ludgate Hill, and successively became a Roman *civitas*, a Saxon borough, a Norman city. It has remained a city to this day—with its old boundaries virtually unchanged and its old type of municipal government unaltered. The great reform of the municipal corporations which took place in 1835 left the City of London untouched. Two years later a royal commission investigated the problem of reforming the government of

¹ There are, in fact, more than three. There is postal London, the Port of London, parliamentary London, water London, gas London, asylums London, etc. The best general account of what "London" is, and how it is governed at the present day, is that given by Maurice L. Gwyer, C.B.E., solicitor to the Minister of Health, in his evidence before the Royal Commission on London Government. This is printed in the commission's *Minutes of Evidence* (London, 1922), Part i, pp. 2-18. The more significant portions of Mr. Gwyer's survey are reprinted in Thomas H. Reed and Paul Webbink, *Documents Illustrative of American Municipal Government* (New York, 1926), pp. 478-503.

Its growth
in the
past four
centuries.

What is
London?

The "City"
of London.

London, but although its recommendations were explicit, nothing was done. The commissioners advised that the City of London be given the same form of government as all other English cities, but parliament could not be induced to take this action.¹ So the City of London remains outside the scope of the Municipal Corporations Acts.

The "city" lies on the north shore of the Thames, in the very center of Greater London. It covers an area of 650 acres (slightly more than one square mile), which is almost entirely occupied by business and public buildings. That explains why it has a resident population of only thirty thousand or thereabouts. But by day its streets and buildings are thronged by hundreds of thousands who come "into the city" to do business; by night it is peopled only by janitors, watchmen, and other guardians of property whose vocations require them to live close in.

Its size
and popu-
lation.

Around this historic municipality there grew up, as has been said, a number of satellite communities which were organized as parishes, each with its own government. Eventually there were more than a hundred of these parishes, together with the neighboring city of Westminster, all solidly built up and forming a great circle. The governing organ of each parish was a vestry or parish meeting which every inhabitant of the parish was entitled to attend. But in practice only a small proportion of the people usually came to the meetings and hence the appointment of the parish officers was often controlled by a few self-seekers. In some of the parishes there were local bosses of the modern American type. In the parish of Bethnal Green, for example, one very efficient politician regularly packed the vestry with his own trustees and got himself appointed to every position that carried patronage with it. For more than thirty years (save for a brief interlude that he spent in jail for peculating the parish funds) this prototype of Tweed held the community in the hollow of his hand. The highways were left unpaved, unlighted, and unsafe for travel by night. The money that should have been used for such purposes went into private pockets. The story has a familiar ring to American ears and

The satel-
lites of the
old city.

The
parishes
prior to
1855.

¹ *Second Report of the Commissioners appointed to enquire into the Municipal Corporations of England and Wales: London and Southwark* (London, 1837). Other investigations took place, with much the same result, in 1854, 1861, and 1866.

proves that neither the boss nor his methods are of trans-Atlantic origin.¹

Not until 1855, however, did parliament give any serious attention to this problem. The combined population of the city and all the surrounding parishes had by this time mounted to two and a half millions, yet there was no provision for supplying the people with metropolitan services. Each parish built its own streets and sewers. Sometimes a single parish had several paving boards. Sir Benjamin Hale, in a speech delivered on the floor of parliament (1855) pointed out that in the parish of St. Pancras there were sixteen of these paving boards with only a few miles of streets under their jurisdiction. The multiplication of authorities and the wastefulness of their work could no longer be tolerated, hence parliament sought to give some relief by establishing a Metropolitan Board of Works.² This body was composed of forty-six members representing the city corporation and the parish vestries. It was charged with the duty of laying out new traffic streets, providing a system of trunk sewers, constructing new bridges across the Thames, establishing a fire protection service, and making various other metropolitan improvements. On the whole, it performed some very useful functions, but its organization was clumsy and inferior men were frequently appointed by the vestries to represent them to the board. Ultimately an investigation showed that it was wasting money and that some of its members were making corrupt profits out of dealings in land.³

In view of these disclosures it was impossible for parliament to leave conditions as they were. It happened at this time, moreover, that a scheme for the creation of administrative counties and county councils throughout England was being considered. Accordingly it seemed best to abolish the Metropolitan Board of Works, to weld the multifarious parishes into a county, and to put a county council in charge. So the administrative County of London was created, with an area of about one hundred and seventeen square miles. It took in portions of five

¹ For the career of Merceron, the boss of Bethnal Green, see Sidney and Beatrice Webb, *The Parish and the County* (London, 1906), pp. 79-90. Bethnal Green was not unique among the London parishes.

² For an elaborate study of this board's powers and work see Ludwig Sinzheimer, *Der Londoner Grafschaftsrat* (Stuttgart, 1900).

³ *Report of the Royal Commission on the Metropolitan Board of Works*. Commonly known as the Herschell Commission (1888).

Creation
of the
Metropoli-
tan Board
of Works,
1855.

Its aboli-
tion, 1888.

The admin-
istrative
County of
London.

historic counties—Surrey, Kent, Essex, Middlesex, and Herts. Some years later, as will be seen, the county was divided into metropolitan boroughs, each having a limited range of local self-government. When an Englishman speaks of the government of London without any qualifying adjective, it is the county government that he usually has in mind.

But the new county did not include the old city. The authorities of the city opposed the plan so vigorously that they were exempted from the Act of 1888. Hence the City of London is still an independent municipal entity, with a form of government that has altered very little since the days of John Gilpin and Dick Whittington. It is a corporation made up of the freemen of the city; that is, of persons who pay a fee of one guinea or more for the privilege of having their names inscribed on the roll of freemen or liverymen.¹ Only freemen have the right to vote at city elections,² but the qualifications for voting at parliamentary elections are the same as in other English cities.

How the
"City" is
governed.

The corporation, or body of freemen and liverymen, governs the city through a lord mayor and three councils (or "courts" as they are officially called); namely, the Court of Aldermen, the Court of Common Council, and the Court of Common Hall.

The organs
of "City"
government.

The Court of Aldermen consists of the lord mayor and twenty-six aldermen, elected by the wards of the city.³ They are elected by the freemen and hold office for life, so that elections

1. The
Court of
Aldermen.

¹The term "liveryman" calls for a word of explanation. In the City of London there are about seventy-five "livery companies", such as the Grocers' Company, the Fishmongers' Company, the Stationers' Company, the Cordwainers' Company, and so on. They are descendants of the mediæval crafts guilds but today the members of the companies have for the most part no connection with the vocation which the name of the organization implies. Virtually all these livery companies have endowments, the income of which is used in part for educational or other philanthropic purposes and in part for the entertainment of the members. To become a member of a livery company a ratepayer in the city makes application and pays a fee. There are three classes of members—(a) ordinary freemen (who pay one guinea per annum), (b) liverymen (i.e., those who pay extra for the ancient right to wear the livery or uniform of the company), and (c) members of the "court" or governing body of the company. A prominent and well-to-do Londoner may belong to several of these livery companies.

²The Representation of the People Act (1918) did not change the qualifications for voting in London "city" elections.

³One is elected for each of the twenty-four wards; two wards elect an alderman between them, and the twenty-sixth alderman represents the "nominal ward" of Bridge-Without, which has freemen but no geographical existence.

take place only at irregular intervals as vacancies occur. The number of freemen in some of the wards is very small, sometimes only two or three hundred, and of these only a small fraction come to the election. The Court of Aldermen is the sole surviving example of a second chamber in an English municipality. Its powers are not of much consequence. It licenses brokers and appoints the city recorders. It also goes through the ceremony of electing the lord mayor, but is restricted to choosing one or the other of two senior aldermen who have been nominated by the Court of Common Hall.

2. The
Court of
Common
Council.

The Court of Common Council is the chief and indeed almost the sole governing organ of the city. It is a large council for a city which contains such a small number of voters, having a total membership of two hundred and thirty-three. Of these, two hundred and six are councillors elected annually by the freemen (a varying number from each ward), and twenty-six are the aldermen above mentioned. The lord mayor presides at its meetings as he also does at meetings of the Court of Aldermen.

Its
functions,

The Court of Common Council meets every week and has all the powers that appertain to metropolitan borough councils.¹ It makes bylaws for the city, appoints nearly all the administrative officers, has charge of streets, bridges, parks, sewerage (except main drainage), street lighting, elementary education, and so on. Through its watch committee it has charge of the "city" police who, by the way, are not a part of the metropolitan police force. The City of London has a huge endowment consisting of trust funds which have been bequeathed to it from time to time during the past seven or eight centuries. These funds are administered by the common council. The council likewise has supervision of markets and, rather curiously, by an ancient grant from one of the Plantagenet kings, this jurisdiction extends to all market within seven miles of the city boundaries. It is also the sanitary authority for the Port of London, but it has nothing to do with the control of navigation on the river. Control of navigation is entrusted to a national board known as the Thames Conservancy. Nor does the common council have charge of fire protection, main drainage, water supply, poor relief, public health, or street railways. These are administered by various other authorities—the county council,

¹ See *below*, p. 187.

the metropolitan water board, the guardians of the poor, and so on—as will be explained later.

The administrative work of the council is handled, as in the other cities of England, by various standing committees. There is a committee for each service, such as streets, markets, libraries, and parks. There are also the usual permanent officers including a city recorder (who presides over the Court of Criminal Jurisdiction), controller, solicitor (city attorney), surveyor (city engineer), medical officer, sheriffs, police commissioners, and coroner.¹ All except the sheriffs are appointed by the council on the recommendation of its committees.²

The Court of Common Hall is a sort of town meeting, a general assembly made up of the lord mayor, the aldermen, the sheriffs, and all the liverymen of London. Common Hall meets once a year, on Michaelmas Day, when it elects the sheriffs and nominates two aldermen for the office of lord mayor. Invariably it nominates the two senior aldermen who have held the office of sheriff but who have not previously served as lord mayor. These two names are then sent to the Court of Aldermen which makes the final selection.

3. The Court of Common Hall.

The lord mayor of London has no independent powers. His office is altogether an honorary one. He appoints no city officials and performs no executive functions. He merely presides at meetings of the three councils and represents the city on occasions of ceremony. He receives a salary of ten thousand pounds per year and is given an additional sum for official expenses. The lord mayor provides each year a great banquet and a gorgeous pageant—the one for the dignitaries of the city and the other for the people. He is always knighted by the king during his term, if he has not already attained that rank. But as a matter of usual practice the honor of knighthood is bestowed upon the sheriffs of London. Then, when one of the sheriffs (already knighted) becomes lord mayor, he is advanced to the rank of baronet or baron during his term. The lord mayor has the use of the Mansion House as an official residence.

The lord mayor of London.

¹The coroner holds inquests not only in cases of death from unknown causes, but when a fire occurs—fire inquests, they are called.

²There are various other officers. One of the most interesting is the City Remembrancer. By an ancient custom he has the use of a seat (but does not vote) in the House of Commons. It is his duty to keep watch on legislation, lest in some corner of a measure there is concealed an infringement of the city's time-honored rights, privileges, or immunities.

Efficiency
of the
City's gov-
ernment.

A curious anachronism is this government of "the city," with its strange trappings of mediævalism.¹ Here is a little square in the great chessboard of metropolitan London retaining its quaint panorama of one-guinea freemen and five-guinea livery-men, altogether defiant of modern municipal democracy. Yet the city is well and efficiently governed. Its officials are honest and capable, its schools well managed. Its taxes are low and its debt is small. Its ratepayers seem to be satisfied. By the usual tests there is no better governed municipality anywhere. Nevertheless the existence of this hoary relic in the heart of a democratic nation seems to be a source of great irritation to the chronic reformers. If they had their way, they would wipe it out of existence as a matter of principle and replace it with a government strictly up-to-date.

How the
adminis-
trative
County of
London is
governed.

The administrative County of London, organized by the Act of 1888, is governed by a county council which consists of one hundred and twenty-four elective councillors (two from each of the sixty parliamentary constituencies of the county and four from the "city"), together with twenty aldermen. The councillors are elected by popular vote for three years, the suffrage being the same as in other municipal elections.² The aldermen are chosen by the councillors (either from within their own ranks or from outside) and serve for six years, but half of them retire triennially.³ Thus the total membership of the L. C. C. is one hundred and forty-four. The councillors and aldermen sit together and have the same voting power. Together they elect each year a chairman of the council and may choose him from outside the council's membership, in which case the total becomes one hundred and forty-five. The practice has been to elect a new chairman each year, and as a rule the choice has been made from within the council's membership.

County
council
elections.

Save for a lull during the war, the London County Council elections have been stubbornly contested. As has been said, there are now three political parties in London politics. They call themselves Municipal Reformers, Progressives, and Labor,

¹ For a full account of the picturesque ceremonies of the city's government see A. J. Glasspool, *The Corporation of the City of London: Its Ceremonies and Importance* (London, 1924).

² See *above*, pp. 81-82.

³ When aldermen are chosen from among councillors this leaves vacancies to be filled by special elections.

but the local associations are virtually branches of the three great national organizations. The Municipal Reformers in London are largely Conservatives (Unionists) in national politics; the Progressives are mostly Liberals. There can be no exact identity, of course; because there is a somewhat different electorate in county and parliamentary elections, the qualifications for voting being dissimilar. Although it is often said that the national parties, as such, do not figure in London elections, and although in a narrow sense this saying is true, in a broad sense the national party lines have always held fairly well in London elections and within the last few years they have been considerably tightened. Today the identification of national and local party lines is as obvious as in New York or Chicago.

During the first ten or fifteen years after the London County Council was established it appeared as though local parties, with local programs, would be built up and would maintain their independence. Men of distinction in many branches of life were persuaded to become candidates for the county council and many of them were elected. Districts that were ordinarily Conservative in national elections sometimes sent Progressive members to the council, while Liberal constituencies occasionally (but not so often) chose Moderates or Municipal Reformers. But this divorce of local from national politics did not become permanent, largely because the Labor party would not have it so.¹ The uncompromising but altogether logical attitude of Labor has compelled the older parties to adopt substantially the same course; that is, to do what the two major political parties have always endeavored to do in the cities of the United States, by capturing and controlling the local organizations for their own benefit. It is possible that the identification of national and local party lines would ultimately have taken place in London quite apart from the rise of Labor as a factor in politics, but Labor's attitude has certainly hastened the process.

The powers given to the London County Council by the Act of 1888 and by subsequent statutes are of extensive scope.² The

Political parties in county council elections.

The council's powers:

¹ For the reasons, see *above*, pp. 100-101.

² Space does not permit their enumeration in detail. The reader who desires to pursue this topic further will find material in Maurice L. Gwyer's testimony before the Royal Commission on London Government, printed in its *Minutes of Evidence* (London, 1922), Part I.

1. High-ways.

council has charge of all street improvements that are metropolitan in character; in other words, the improvement of all arterial highways. What are main highways must always be a somewhat difficult matter to determine and in London it has led to a good deal of controversy between the county council and the councils of the various metropolitan boroughs, each of them desirous of shifting the financial burden upon the other. The

2. Sanitation.

county council is the sole authority with respect to main sewerage and sewage disposal. Since its establishment in 1888 the council has completed two great sewer systems, one on each side of the Thames. The sewage is conducted into huge basins where it is dosed with a chemical precipitant. The sludge is then ferried out to sea and dumped overboard, while the effluent is run into the tidal reaches of the river. Subsidiary sewers are under the control of the metropolitan borough councils, but the plans for construction or alteration require the approval of the county authorities. The county council has charge of tunnels and ferries, bridges over the Thames (except those in the city), and the Thames Embankment. Fire protection also comes within the jurisdiction of the county council, but police protection does not. The county council has large powers in matters of public health and sanitation. Subject to supervision by the Ministry of Health, it provides health and sanitary regulations. The work of enforcing the health regulations is mainly done by medical officers in the various metropolitan boroughs, but the county council pays half their salaries, supervises their activities, and maintains a uniform standard. In addition it has its own corps of sanitary inspectors who deal with lodging houses, abattoirs, and offensive trades. There is a considerable division of authority in this field. For example, milk inspection is a function of the borough authorities, while the officials of the county council license dairies and make the tuberculin tests.

3. Fire protection and public health.

4. Housing.

There is also a division of authority in the matter of housing. The boroughs control the inspection of tenements and the enforcement of the laws against overcrowding. But the county council is the chief authority for the erection of municipal tenements, although the boroughs have some powers here also. In both cases the authority to erect and maintain "workingmen's dwellings" has been conferred by a series of parliamentary acts beginning with the Housing of the Working Classes Act (1890)

and continuing to the present time. The county council has built thousands of these dwellings, both inside the county and outside. It is said that the council now serves as landlord to more than ten thousand families. The council is responsible for the maintenance of parks and open spaces (except the royal parks and those that are controlled by the city) and for the provision of public recreation. All in all it maintains more than a hundred parks and open spaces. Some of them are outside the county boundaries but are largely patronized by Londoners.

5. Parks.

Education is the most important of all the county council's functions. By the Education Act of 1903 it took over all the powers of the old London school board. Through its education committee and various subcommittees, the county council now manages all the elementary schools with an enrolment of nearly a million children. It provides a large number of secondary schools, technical schools, and specialized schools of all sorts. It has charge of medical inspection in schools and makes provision for the education of blind, deaf, and otherwise handicapped pupils. Large grants of money are made by the county council to institutions of higher education, especially to the University of London.

6. Education.

A full list of the council's powers would extend over several pages, for the foregoing are only its principal ones. It has scores of miscellaneous functions, such as the licensing of theatres, the administration of the building laws, the maintenance of various institutions for delinquents and defectives, and the upkeep of certain markets. Most of the London markets, even outside the limits of "the city", are owned and operated by the city authorities and a few are privately owned. But the county has also various powers in this field.¹

7. Other powers.

As respects public utilities, the powers of the London County Council are by no means so broad. It may own and operate tramways (street railways), which it does; although not all the tramways in the county are owned and operated by it. About one hundred and fifty miles of trackage are operated by private companies. The London subways or "tubes" are owned and operated by private companies. So are the motor busses which carry most of the surface traffic. The county council maintains

8. Public utilities.

¹ Within recent years it has also been given a variety of functions by the Employment of Children Act, the Motor Car Act, the Overhead Wires Act, the Coal and Bread Act, the Shop Hours Act, and many other statutes.

a fleet of passenger boats on the Thames. With the water supply it has nothing to do. This is controlled by a Metropolitan Water Board of sixty-four members, chosen by various local authorities within the entire water district, which covers a much greater area than the county.¹ The county council appoints fourteen members of this Metropolitan Water Board. The board supplies water to nearly six million people, drawing most of its supply from the upper reaches of the Thames. Gas lighting is in the hands of private companies operating under franchises granted by parliament. The companies are not subject to regulation by the council but come under the jurisdiction of the Board of Trade. Electric lighting is provided either by private companies under the provisions of the Electric Lighting Act (1888) or by the metropolitan boroughs as a public enterprise. Three of the principal public utilities, therefore, are wholly outside the county council's jurisdiction—water, gas, and electricity. Markets are largely outside and so is transportation, as a matter of fact. Finally, it may be repeated, the council has no control over policing, police courts, poor relief, or public libraries. Thus it lacks some of the most appropriate powers of a great metropolitan authority.

Its
revenue.

For the performance of its varied functions, such as they are, the London County Council requires a large amount of revenue. The metropolitan borough councils are the taxing (or rating) authorities; they issue the precepts and collect the money, both for their own use and for the county. There is a complicated method of equalizing the rates as between the poorer and the richer boroughs.² Large sums are also received as grants-in-aid from the national treasury. A considerable amount of revenue is obtained from tolls, fees, fines, rents, and from the net profits of county enterprises. Every year the finance committee of the council prepares an itemized budget which is considered by the council in committee of the whole and adopted by a majority vote.

Its right
to borrow.

The London County Council has power to borrow money, but every loan must have the prior approval of the national author-

¹ These authorities are the London County Council, five other county councils, the twenty-eight metropolitan borough councils, the town council of the city of Westminster, and the councils of various boroughs and urban districts outside the administrative county of London.

² See the discussion of this matter in the *Report of the Royal Commission on London Government* (London, 1923), pp. 82 ff.

ities. This approval is usually obtained by special act of parliament. The council seeks and obtains borrowing power virtually every year. It has been a large borrower for tramway construction, housing schemes, and other public enterprises. It is difficult to figure the net indebtedness of London, because every borough council and board of guardians within the county has power to borrow, with the sanction of the county council. As a rule, when one of these local authorities needs a loan, the county council borrows the money for it. This is because money can be had at lower rates of interest when the county issues the bonds. The debt of the Metropolitan Water Board also forms part of London's indebtedness, but it is offset by valuable assets.

The London County Council does most of its work through standing committees. The council itself meets every Tuesday and its sessions are largely taken up with matters of general policy. Details must necessarily be delegated. There are eighteen standing committees; on finance, highways, education, public works, and fire protection, and so forth. In addition there is an executive committee or "general purposes" committee, as it is called, made up of the chairmen of all the other standing committees. All committees are appointed by the council itself—not by the chair, as is customary in American councils. The procedure, immediately after a council election, is to appoint a special committee for the purpose of framing a slate of committees. This slate of committees is then submitted to the whole council, which usually accepts it without change. The standing committees vary in size—some have only five or six members, while the largest committee has fifty-two.

Each committee has a chairman and a vice-chairman, both named by the council. Some of the committees have a great deal to do and find it necessary to appoint sub-committees. Active members of council are said to have meetings of one sort or another five days in the week. But no committee or subcommittee has any final powers. Every action taken by them must go before the whole council in the form of a recommendation or report. It does not become valid until ratified. The laws permit the council to delegate to the education committee final powers in all matters except levying taxes and borrowing money, but the council has never done this. It passes on all education committee's recommendations, although rarely making any

How the council does its work : through committees.

Organization and work of these committees.

change in them. In practice, moreover, the recommendations of all the other committees are usually accepted without much dissent, hence it can fairly be said that they have final authority in all matters which do not raise some controversial issue. In such cases, the council does not hesitate to discuss, amend, and occasionally to reject the recommendations of its standing committees. In recent years the complaint has been made that the council as a whole spends too much time on details and too frequently amends the reports of its committees.

Proceedings in the council are conducted as in parliament. There are elaborate rules and they are closely followed. The chairmen of committees virtually act like ministers in the House of Commons so far as introducing and steering business is concerned. There are party whips to see that members are on hand to vote. An active member of the council must devote several days each week to the work—sitting at meetings of committees and sub-committees, preparing recommendations, studying documents, and so on. The council's weekly agenda is a formidable document, containing sometimes forty printed pages or more.

The administrative County of London has no mayor and no official corresponding to a mayor. The county council has a chairman but he is not an executive officer. He presides at council meetings but has no other formal powers, although his influence is sometimes very considerable. The council itself is the executive authority. But since executive functions obviously cannot be performed by a body of one hundred and forty-four members, they are delegated by the council to its eighteen committees and these committees, in their turn, devolve a large part of the work on the permanent officials. The county's staff of permanent officials is a very large one and until a few years ago all of its members were appointed by the council at its discretion. The higher officials continue to be so appointed, but the subordinate officials are now chosen by civil service competition.

Among the permanent officials of the county may be mentioned, first of all, the clerk of the council. The act of 1888 made no provision for such an officer but arranged that a deputy chairman, selected by the council from its own ranks, should have charge of the clerical work. It soon became apparent, however,

General
procedure
of the
council.

The
council's
chairman.

Permanent
officials.

The clerk
of the
council.

that there was serious need of an official who would do for the county council what the town clerk does for the council of a borough,—in other words, an official who would do more than keep the records. Accordingly in 1896 a change was made whereby the council was provided with a permanent clerk. The post has now risen to one of high service and importance in London government, contributing greatly to the expedition with which the council has been able to carry on its work. The clerk has a staff of assistants who attend the various committee meetings and perform the large amount of clerical labor which the system of committee administration involves.

Then there is the comptroller, an officer who has general supervision of the county's financial affairs, with functions similar in the main to those of the borough treasurers but with much greater responsibilities and vastly more work. The complicated financial relations that exist between the County of London and the twenty-eight boroughs make the comptroller's office no sinecure, and the enormous indebtedness of the county provides a large amount of routine labor. In addition, there is the task of financing the huge services (such as tramways) that are operated directly by the county council; a burden which falls to some extent upon the finance committee of the council, but is by this body virtually shifted to the comptroller's office. In addition to these duties, the comptroller's office also has charge of all disbursements. A deputy comptroller, several assistant comptrollers, and a staff of clerks aid their chief.

The comptroller.

A third permanent official with large tasks and responsibilities is the chief engineer, whose supervision of the system of main drainage is perhaps the most important of his duties, for in this particular branch of administration more than a thousand persons are employed. The construction of main highways, the maintenance of the county bridges, and other like matters of importance also come within the engineer's jurisdiction. The position commands a high salary and has been filled by some of the best known construction engineers in the United Kingdom.

The chief engineer.

Other permanent officials include the solicitor, the superintending architect, the medical officer of health, the chief officer of the park department, the manager of works, and the chief of the fire brigade, each of whom has charge of the department

Other heads of departments.

indicated by his title. There is also the general manager of tramways with his two chief assistants (the electrical engineer and the traffic manager); and, finally, the housing manager, who has general care of the work which the council has undertaken in the way of providing municipal dwellings. All these officials receive annual salaries varying from one thousand to three thousand pounds. They hold office during the pleasure of the council but in practice are left in office so long as their work is satisfactory.

Their
tenure.

Each of these higher officials is an expert in his field, qualified by education or experience. Political influence is sometimes brought to bear upon the council in determining these appointments, but in the main the best qualified applicant is chosen without regard to his party affiliations. Removals on partisan grounds are extremely rare. These permanent officials exert a large influence upon the work of the committees in London, as in other English municipalities. The standing committees rarely make a recommendation without first hearing what the higher officials have to say about it, and on all technical matters they are guided by expert advice.

Their sub-
ordinates.

Every higher official in London has a corps of subordinates of varying ranks, from "fourth class assistants" to "principal assistants." Most of those in the lower grades are now selected, as has been said, by civil service examinations. Young men of good education enter the employ of the county in this way and are then promoted as vacancies occur. Organized labor in America has often shown itself hostile to civil service examinations as a method of selecting public employees, but in England the Labor party has not—as yet—displayed that attitude.

Has the
council
power
enough?

Complaint is sometimes made that the powers and resources of the London County Council, extensive though they appear, are not broad enough.¹ They are too narrow, it is said, for the governing body of so great a community. It is true that parliament has not been over generous in dealing out authority to the council. It has preferred to divide the power among several hands rather than to concentrate it in one. The council has chafed under its limitations, and in 1919 it passed a resolution asking parliament to make a careful inquiry into the whole

¹ C. F. G. Masterman, *How England Is Governed* (New York, 1922), pp. 145-146.

question of London government, with a view to a possible extension of the county's boundaries and a corresponding increase in the council's powers. A royal commission was accordingly appointed to make such an inquiry, and various proposals for the reorganization of the metropolitan government were laid before it. But a majority of the commission reached the conclusion that no great improvement in administration would be obtained by a widening of the existing county boundaries or by a general change in the present distribution of powers. Instead, they recommended that the London County Council and the metropolitan borough councils should get together and make some reapportionment of their existing functions.¹ This the county and the boroughs already have the right to do without any action on the part of parliament. One member of the royal commission, it is interesting to note, suggested that something might be learned from city-county government in the United States. "The London County Council", he suggested, "might well give some attention to the municipal reforms in progress in America during the last twenty years, different as the conditions may be."²

The royal
commis-
sion of
1919.

Despite the limitations placed upon its authority, the London County Council has made a rather striking record of achievement during the past thirty-five years. Since it took London in hand it has constructed many new and important arteries of traffic; notably the Blackwall Tunnel, the Tower Bridge Approaches and Tunnel, Kingsway, the Thames Embankment Extension, and the Vauxhall Bridge. It has extended and greatly improved the system of sewage collection and disposal. It has provided a number of new parks and places of recreation, besides greatly improving those which existed before the date of its organization. Large improvements have been made in the fire protection service. It has demolished great slum areas and built thousands of workmen's dwellings. It has built or acquired and now operates about three hundred miles of street railways, besides a fleet of river steamers. It has constructed, on the south shore of the Thames, adjoining Westminster Bridge, a fine County Hall in which all the principal county

The
council's
achievement.

¹ *Report of the Commissioners Appointed to Inquire into the Local Government of Greater London* (London, 1923).

² See the Memorandum of Sir Albert Gray in the *Report of the Royal Commission* above mentioned, p. 135.

offices are housed. It has transformed the entire system of education in the county, making great improvements in school buildings, in facilities, and in standards. Especially in technical and special institutions has there been notable progress. Taking it all in all, the London County Council has no reason to feel discouraged. Its record will stand comparison with that of any other great municipal authority.

The metro-
politan
boroughs.

Mention has been made of the metropolitan borough councils which share in the work of London government. The administrative county of London is a federation of boroughs. In 1888, when the county was created, there were more than a hundred parishes and districts within its bounds, each with a vestry or small elective board which was vainly trying to cope with problems that had grown too big for it. Everybody appreciated the need for consolidating these small areas into large ones, but not until 1899 did parliament agree upon the details of a plan. In that year it passed the London Government Act, by which all the territory comprised within the county (but not including the city) was organized into twenty-eight metropolitan boroughs. These metropolitan boroughs are very unequal in size, because an attempt was made to follow the traditional boundaries.¹ Each borough has a local government consisting of mayor, aldermen, and councillors all sitting together to form a borough council. The councillors are elected by the borough voters, the aldermen and the mayor by the council. The qualifications for voting, the procedure in nominations and elections, and the other incidents of organization are almost identical with those in vogue in the ordinary boroughs of the country. Borough election are fought out upon party lines which coincide with those of county elections, the chief contests during the last dozen years being waged between Labor candidates and their opponents. The Labor party has gained control of the council in several of the boroughs—notably in Battersea, Bermondsey, Islington, Poplar, and Stepney. Contrary to expectation, however, it has not ousted the old officials or departed radically from the existing traditions of borough government. The chief re-

The
borough
councils.

¹ These boroughs are Battersea, Bermondsey, Bethnal Green, Camberwell, Chelsea, Deptford, Finsbury, Fulham, Greenwich, Hackney, Hammersmith, Hampstead, Holborn, Islington, Kensington, Lambeth, Lewisham, Paddington, Poplar, St. Marylebone, St. Pancras, Shoreditch, Southwark, Stepney, Stoke-Newington, Wandsworth, Woolwich, and the City of Westminster.

sult of Labor control in various metropolitan boroughs has been a somewhat increased expenditure upon things which interest the worker, an inflation of the borough payroll, and a higher tax rate. In one of these boroughs, Poplar, the extravagance became so intolerable that the intervention of the courts was invoked to check it and "poplarism" passed into the English vocabulary as a synonym for municipal freehandedness.¹

In the extent of their powers, metropolitan borough councils are more limited than the councils of other English boroughs. Their chief functions are those which had previously been exercised by the local vestries and boards. In general the borough council is the local highway authority. The county, as has been said, constructs all main highways, but the borough attends to purely local enterprises in the way of street-building, paving, lighting, and cleaning. The borough council also undertakes the construction and maintenance of subsidiary sewers and the enforcement of the Public Health Act. It is authorized to erect workmen's dwellings, and some of the metropolitan councils have gone into this enterprise on a considerable scale. It has charge of public baths and wash-houses; it looks after the public libraries, and controls the local cemeteries. The borough councils likewise have power to own and operate electric lighting plants and more than half of them have taken advantage of this opportunity. With the approval of the Ministry of Health, other powers may be transferred to the borough councils from the county council or vice versa. But both the county and the borough councils have been reluctant to give up anything, hence very little transferring of power has taken place either way.

Their
powers.

Among the twenty-eight boroughs there is a connecting link known as the Metropolitan Borough Standing Joint Committee. It is made up of delegates from the "city" and from the bor-

The
standing
joint com-
mittee.

¹ Among other things the Poplar borough council voted to pay all the borough employees a minimum wage of £4 per week, which was a rate considerably in excess of the minimum paid by private industries at the time. The district auditor of the Ministry of Health disallowed such payments, amounting in all to about £5,000, and surcharged this amount upon members of the council, claiming that the wages paid were excessive and hence illegal under the provisions of the Public Health Act of 1875 (Section 247, par. 7). The Divisional Court upheld the auditor's action, but the Court of Appeal reversed this decision and quashed the surcharge. Thereupon the matter was carried to the House of Lords, which has final jurisdiction in such controversies, and here the auditor's action was again upheld.

ough councils, and holds quarterly meetings. This joint committee is a voluntary organization, and no metropolitan borough is compelled to send delegates to its meetings. But all of them do it. The idea is to secure uniformity of action in matters affecting the interests of all the boroughs, and particularly to provide a united front in dealing with the county council.

On the whole, the system of borough government within the administrative county has worked fairly well, although in recent years the whole system has been harshly criticized from some quarters. Local administration has unquestionably improved during the past twenty-five years, as anyone who remembers the old system of government by parish vestries is well aware. But the standards of personnel in the metropolitan borough councils, as in the London County Council, have been declining somewhat. Fewer men or women of intelligence or energy, it is said, are now willing to stand for election in the metropolitan boroughs. Much of the trouble seems to arise from the differences in the resources of the various boroughs. Some have a very high density of population but with a relatively small total of rateable property. Others have a very high rateable value with a smaller density. Under such conditions it is inevitable that rates in the congested boroughs should be high. The councils in some of these metropolitan boroughs have been criticised for a situation which is not within their power to avoid. They are in a difficult position anyhow, being what a recent writer has called "a kind of nadir in British municipal life."¹ The voters do not take much interest in their work except to criticise. They are far eclipsed in the public imagination by the lord mayor and the city aldermen, who in reality count for much less in the routine government of the metropolis. You can read a London newspaper day after day and see nothing about these twenty-eight borough councils—unless one of them does something foolish. Even the proceedings of the county council receive astonishingly little newspaper publicity unless matters of unusual importance are being dealt with.

Neither the county council nor the borough councils, as has

¹C. F. G. Masterman, *How England Is Governed* (New York, 1922), p. 147.

How the
system
works.

The de-
cline of
personnel
in recent
years.

been said, have anything to do with the policing of London. The old city has its own police, with a watch committee of the common council in charge of it. Surrounding the city and comprising a circular area of about six hundred and fifty square miles is the Metropolitan Police District. It includes the whole of the County of London and parts of several other counties. This district was first established by Peel's Act of 1829, a statute which gave London its first body of professional, uniformed police. At the head of the district is a police commissioner who is appointed by the crown. He is not chosen for any definite term but holds office during the pleasure of the Home Office. Nor is the appointment political; the commissioner is almost invariably a man of long administrative experience. He is paid a salary of £2500 per annum and has three assistant commissioners (appointed like himself). The metropolitan police force now consists of over 20,000 men of all ranks, thus making it the largest police force in the world. But the cost of maintaining this huge establishment is considerably less than the amount spent upon the police department of New York City, which is only about half as large. The commissioner has entire charge of organization and discipline; but the financial administration of the force is entrusted to a receiver appointed by the crown, who is responsible for the erection and management of all police stations, the awarding of contracts, the purchase of supplies, and for all other matters outside the actual work of preserving law and order. The high standards of efficiency maintained by the metropolitan police force of London is a matter of world-wide knowledge.¹

The metro-
politan
police
district.

These, then, are the principal authorities that govern London and administer its varied public services. But they do not make up the entire list. In addition to the city corporation (with its lord mayor and three councils), the county council with its committees and sub-committees, the councils of the twenty-eight metropolitan boroughs, and the police commissioner with his assistants, there is a Metropolitan Water Board, a Metropolitan Asylums Board, the Thames Conservancy, the Port of London Authority, thirty-one boards of poor law unions, and more than a hundred parish vestries. A full account of how these various

The long
list of
London
authori-
ties.

¹ See the comments upon it in Raymond B. Fosdick's *European Police Systems* (New York, 1915), *passim*.

authorities are organized, and what they do, would fill an entire volume.

What
of the
future?

A government comprising so many independent authorities can hardly be very efficient or satisfactory. Some considerable simplification of the machinery would seem to be desirable and many Londoners are sure of it. Not only this, but London, as a community, has now far outgrown the bounds of the administrative county. The decentralization of authorities just outside the county is even worse than within. Various proposals for unification and consolidation have been put forth, but it seems impossible to devise any scheme which will command the support of all the widely diverse interests involved. The authorities of the outlying boroughs, urban districts, and rural districts do not want the jurisdiction of the London County Council extended to them, and they oppose every scheme that has this feature embodied in it. On the other hand, the County Council, quite naturally, is very little interested in any plan that does not contemplate a widening of its own jurisdiction. Hence Greater London remains a vast labyrinth of civic authorities through which the student of metropolitan institutions has no small difficulty in threading his way.

CHAPTER X

SCOTTISH AND IRISH CITIES

Scotland was an independent kingdom down to the beginning of the seventeenth century when her monarch became, by hereditary right, king of England. This royal union of the two countries resulted in the growth of amicable relations and in 1707 it was transformed into a parliamentary union. Scotland gave up her own parliament and received a proportionate representation in the parliament of Great Britain. But she was permitted to retain her own system of laws and legal procedure, her own religion, and her municipal institutions.

The position of Scotland.

For more than two hundred years, therefore, Scotland has been joined with England in an organic union, but has retained and developed her own system of local government. The British Parliament at Westminster is the lawmaking body for Scotland, and may pass laws for that country which do not apply to England. This it has frequently done, but the Scottish municipal system still rests, for the most part, upon legislation enacted by the parliament of Scotland before it went out of existence in 1707. The Municipal Corporations Act of 1835 did not apply to Scotland, nor have the various amendments to that act been extended to cover the Scottish cities. There is no municipal code for Scotland. Scottish city government rests upon various ancient laws and customs, modified to some extent by various acts passed at Westminster during the last hundred years.¹

The legal basis of Scottish municipal government.

The Secretary for Scotland, a member of the British ministry, is the chief figure in the system of central supervision over local government. He is the head of the local government board for Scotland, the Scottish board of health, and the Scottish

Central control of the Scottish cities.

¹Notably the Royal Burghs Act of 1833, the Police and Improvement (Scotland) Acts of 1850 and 1862, the Burgh Police (Scotland) Act of 1892, and the Town Councils (Scotland) Act of 1900. A list of these laws may be found in the *Minutes of Evidence Taken before the Royal Commission on Local Government* (London, 1924), Part vii, Appendix, pp. 1525-1526.

education department. Thus he combines most of the supervisory powers which are exercised over English local authorities by the ministry of health, the home office, and the board of education.¹ As a member of the cabinet, he is responsible to the House of Commons. He is provided with a legal adviser who is known as the Lord Advocate.

Its
extent :

(a) Police.

Generally speaking, except in the matter of police, the Scottish municipal authorities exercise their functions without much interference from the Secretary for Scotland, but he exercises a measure of financial control.² The authority of the Secretary for Scotland over municipal police authorities has always been of a direct and extensive character. This control, moreover, was enlarged a few years ago by the Police Act of 1919, which empowers him to make regulations concerning the organization and pay of all the police forces in Scotland. His approval is necessary for any changes in the size or character of municipal police establishments. The appointment of a chief of police (or chief constable) in any Scottish burgh requires his approval. In Scotland, as in England, the national government gives a grant-in-aid towards the cost of municipal police and this contribution is not paid until the Secretary for Scotland certifies that the force has been maintained in a state of efficiency.³ The Secretary acts in such matters upon the recommendation of an inspector of constabulary.

(b) Public health.

But although the Secretary for Scotland, as such, does not exercise much control over the cities except in the matter of police, it ought to be mentioned that a good deal of supervision is performed by boards of which the secretary is a member. The Scottish board of health has extensive powers under the Public Health (Scotland) Act of 1897. The initiative in health matters rests with the municipal council, but when the council fails to act the board of health may intervene. It also issues orders and regulations supplementing those of the town council. No medical officer or sanitary inspector in a Scottish burgh is removable, moreover, except with the board's sanction. Various matters connected with housing and town planning are also placed under

¹ There is also a General Board of Control for Scotland, but its name is misleading. It has to do with the care of the insane.

² See the "Memorandum by the Scottish Office" printed in *Minutes of Evidence*, etc. (London, 1924), Part vii, pp. 1514-1518 (especially par. 92).

³ See *above*, pp. 67-69.

its supervisory jurisdiction. As respects public health matters, accordingly, this board has powers much similar to those possessed by the ministry of health in England.¹ It should be mentioned, however, that the Scottish board has no such powers in relation to poor-law relief.

The Scottish education department (officially known as the Committee of the Privy Council for Education in Scotland) is an ex-officio body. The Secretary for Scotland is its controlling member and is responsible to parliament for its actions. The chief function of the department is to supervise the work of the local education authorities. In this connection, it administers the grants-in-aid which are allotted by the national government for the support of local schools. Likewise it has various responsibilities in connection with technical schools, colleges, and institutions for the training of teachers.

(c) Education.

The Secretary for Scotland prescribes the form in which municipal accounts are to be kept; he appoints the burgh auditor, and receives each year an abstract of the accounts. His power to disallow expenditures, however, is less extensive than that of the minister of health in England. He has no power over the fixing of local tax rates and except in the case of two municipal enterprises, namely, housing and electricity, the Scottish burgh may borrow money under the general laws without obtaining the sanction of the central authorities as is generally required in the case of English boroughs.²

(d) Finance.

The local authorities in Scotland, as in England, may obtain powers from parliament by promoting private bills.³ But the procedure is somewhat different. The first step is to file with the Secretary for Scotland an application for a provisional order. The application is submitted to the chairman of committees in the House of Lords and the chairman of the committee on ways and means in the House of Commons. The next step cannot be more clearly stated than in the words of the procedural law itself:

Private bills and provisional orders in Scotland.

"If it appears from the report of the chairman that either of them is of the opinion that the provisions or some provisions of the draft

¹ For an outline of these powers, see *above*, pp. 54-63.

² See *above*, pp. 123-125.

³ The procedure is laid down in the Private Legislation Procedure (Scotland) Act of 1899.

order do not relate wholly or mainly to Scotland, or are of such a character or magnitude, or raise any such questions of policy or principle that they ought to be dealt with by private bill and not by provisional order, the Secretary for Scotland shall, without further inquiry, refuse to issue the provisional order, so far as the same is objected to by the chairmen or chairman."

In such cases the proposed order is introduced as a private bill, unless the application is withdrawn by those who filed it. No special notice need be given, as in the case of private bills which are promoted by English local authorities.¹ Notices given in connection with the application for a provisional order are deemed sufficient. The Secretary for Scotland reports on private bills to parliament and may, through his representatives, appear before the appropriate committees to which the bills have been referred. As a matter of fact, few private bills for Scotland are enacted by parliament. Most of the applications for provisional orders are granted.²

The
inquiry.

Before issuing a provisional order, if there is opposition to this step from any body or interest concerned, the Secretary for Scotland refers the matter to commissioners for inquiry. These commissioners are chosen from among the members of the two Houses of Parliament but outsiders may be named if necessary. The commissioners hold hearings and if they report adversely on the application, the provisional order is not issued. If they do not report adversely, the issue of the order is in the discretion of the Secretary.

Confirma-
tion by
parlia-
ment.

Provisional orders issued by the Secretary for Scotland must be submitted to parliament for confirmation (as in the case of English provisional orders) and this confirmation may be opposed on the floor. Such opposition sometimes arises, especially where the order relates to the changing of municipal boundaries.

The areas
of local
govern-
ment in
Scotland :

The largest area of local government in Scotland is the county, of which there are thirty-three. Each has a county council, all the members of which are directly elected by the voters, there being one councillor for each electoral division into which the

¹ See *above*, p. 36.

² Out of 94 applications filed during the years 1921-1924, only 10 were refused. See *Minutes of Evidence*, etc. (London, 1924), Part vii, Appendix, p. 1521.

county is divided. There are no county aldermen, as in England. Each council elects a chairman from among its own members. He is known as the convener of the county and holds office for one year, but has no powers save those of presiding officer. These Scottish county councils have substantially the same powers as appertain to county councils in England, save in the fields of education and main highways, where their authority is more limited. On the other hand the Scottish county councils have somewhat more extensive powers with respect to the formation and alteration of governmental areas within the county.¹ Each county council appoints from among its own members a county road board which has jurisdiction over all highways except those which lie within the limits of royal or parliamentary burghs. Much of the board's work, however, is done by district committees.² Each county council also appoints certain of its members to a joint standing committee on police.

(a) The
county.

An important officer in Scotland is the sheriff.¹ He is appointed by the crown, and is the representative of the crown in the counties. His powers are not altogether connected with police administration, however, but relate to various governmental matters such as the conduct of parliamentary elections and the creation of new burghs or alterations in the boundaries of older ones. His confirmation is required in the case of certain bylaws passed by the town councils and, in certain cases, for the taking of land for public improvements. In addition, the Scottish sheriff is a judge with extensive civil and criminal jurisdiction. In England there is no official with duties corresponding to his.

Functions
of the
sheriff.

The chief area of urban government in Scotland is the burgh,

The
burgh.

¹ A comparison of the functions of county councils in England and Scotland is included in the *Minutes of Evidence*, etc. (London, 1924), Part vii, Appendix, pp. 1526-1527.

² These district committees may be regarded as the counterpart of the rural district councils in England. They are made up, in each case, of the county councillors from the electoral divisions within the district and one representative from each parish council. These committees have functions relating not only to highways but to health, water supply, lighting, housing, and many other matters. They have no jurisdiction over royal or police burghs. They have no independent taxing power and must get their funds from the county council, which in this way exercises control over their work; but the district committees appoint their own officials. The county council approves the salaries but is not asked to ratify such appointments.

³ The sheriff is not necessarily a county officer. Two or more counties may come within his jurisdiction. There are fifteen sheriffs for thirty-three counties.

which corresponds roughly to the English borough.¹ There are three classes of burghs, namely, royal burghs, parliamentary burghs, and police burghs. Royal burghs are those places which received charters prior to the union of Scotland and England in 1707. These old charters conveyed special privileges which the burghs still retain, but no new royal burghs have been created for more than two centuries. A parliamentary burgh is one which received by the Reform Act of 1832 the right to be represented in the British House of Commons. Thirteen parliamentary burghs were created by this act and two more were added in 1868.² As a practical matter, there is today no difference between a royal and a parliamentary burgh. In a general way the larger burghs of both types are analogous to the county boroughs in England. The third type of burgh in Scotland is known as the police burgh. This category includes all towns of more than seven hundred inhabitants which have been given a special status, especially in police matters, under a general act of 1892 and various amending acts.³ These police burghs correspond, in a general way, to the ordinary non-county boroughs and the urban districts of England.

Number
and size
of the
burghs.

Scotland has one city of over a million inhabitants (Glasgow), one of over four hundred thousand (Edinburgh), and only two others with population exceeding one hundred thousand (Dundee and Aberdeen). All four are both royal and parliamentary burghs.⁴ Twelve other burghs have populations ranging from thirty to one hundred thousand. From smallest to largest, there are about two hundred burghs of all types—most of them police burghs.⁵ The smallest is New Galloway, which has fewer than 350 inhabitants.

¹The best source for the study of Scottish municipal government is W. E. Whyte's *Local Government in Scotland* (Edinburgh, 1925). This volume, containing nearly seven hundred pages, is comprehensive, thorough, and up-to-date. An older book of considerable value, but now out of print, is D. O. Dyke, *Scottish Local Government* (London, 1907).

²The Representation of the People Act, 1918, took away the right from some of these parliamentary burghs but provided that they should not lose their municipal status.

³The Burgh Police (Scotland) Act of 1892 and the amending acts of 1903 and 1911.

⁴Their government differs in some respects from that of the smaller burghs.

⁵For a full list (with population and status indicated in each case), see the *Minutes of Evidence*, etc. (London, 1924), Part vii, Appendix, pp. 1530-1532.

How are new burghs created? In any locality having a population of seven hundred or more, a petition signed by seven or more householders may be presented to the sheriff asking that the place be made a police burgh. The sheriff thereupon calls a meeting of all the householders and submits the question to a vote of those present—just as is done at a New England town meeting. If a majority vote in favor, and if the sheriff himself approves the step, he declares the place to be a police burgh. But before issuing such declaration he must give the town council of any contiguous or closely adjacent burgh an opportunity to state its objections, if it has any. If objections are raised, the sheriff may overrule them or may make some adjustment satisfactory to all concerned. There is no appeal from his action.

The
creation
of new
burghs.

A curious procedure this is, and very different from that by which new boroughs are created in England. In England a new borough can only be brought into being by royal charter and no such charter is issued to any place having a population of less than ten thousand. In Scotland no charter is needed; the mere declaration of the sheriff brings under the general terms of the law any unincorporated place having a population of seven hundred or more. During the past forty years about thirty new burghs have been created in this way. The largest (Barrhead) had a population of about eighty-five hundred inhabitants when made a burgh in 1893; the smallest (Donne) had fewer than one thousand.

The boundaries of an existing burgh can also be changed by the sheriff on the application of the town council. He must give due public notice of such application and must hear objections from all parties interested. An appeal from the sheriff's order may be taken to the Court of Session, one of the Scottish courts. The boundaries of police burghs are usually adjusted in this way. But the boundaries of a royal or parliamentary burgh may be altered by order of the Secretary for Scotland on application of the town or county council.¹ Such an order would require confirmation by parliament. And, as in the case of English boroughs, a change of boundaries can always be made by special act of parliament. As a matter of practice, most changes in the

Alterations in
burgh
boundaries.

¹ Under the provisions of the Local Government (Scotland) Act of 1889, Section 51.

smaller burghs are made by sheriff's order and in the larger ones by special legislation.

Organiza-
tion of the
burgh.

1. The
town
council.

The difference between these boroughs is in jurisdiction rather than in the form of their municipal organization. Every burgh, of whatever sort or size, has a town council. The councillors, who vary in number with the size of the burgh, are elected by vote of the people for a three-year term, and one-third retire annually. The qualifications for voting, the system of nominations, and the election procedure are much the same as in English boroughs. The elections in the larger burghs are fought on party lines. What has been said about municipal campaigns in England applies to Scotland as well.¹ After the councillors are elected, the whole council proceeds to choose from among its own membership a certain number of bailies, who correspond to the English aldermen but have some special powers as magistrates. These bailies are chosen for a three-year term and continue as members of the council. The whole council also elects a provost, who corresponds to the mayor in English cities, but his term is three years. In some of the burghs he is known as the lord provost. Like the English mayor or lord mayor, he receives no salary and has no special executive powers, but he presides at meetings of the council and represents the burgh on all occasions of ceremony.

2. The
provost.

3. The
councilors.

The Scottish municipal councils do much of their work through standing committees, as in the English boroughs. The committees are chosen in the same way, that is, by the whole council. Each has its chairman, similarly appointed, and the chairman is an important factor in the committee's work. He is called "convener", by the way, not chairman. As in England, again, the council committees work in close touch with the permanent officials. But there are one or two important differences. In the Scottish burgh there is no watch committee; the whole council serves as the police authority in all burghs which have police forces separate from those of the county. In Scotland, moreover, education is under county jurisdiction (except in the four largest burghs) and there are no education committees as in English boroughs. On the other hand, the Scottish town councils have various other committees—for example, on streets, gas, housing, health, parks, lighting, and so forth. When the burgh owns and

¹ See *above*, pp. 104-111.

operates a lighting plant, or a system of street railways, the work of the committee in charge of such utilities is naturally time-consuming. Councillors and bailies give up many afternoons or evenings to committee meetings.

Fundamentally, then, the Scottish and English systems of city government are alike. In both there is no division of powers—the town council is supreme. In both the mayor (or provost) is without special powers. In both the routine work is done by standing committees. Lastly, and most important of all, the permanent official is in both systems the dominating figure. It is largely by the advice of these officials that the committees are guided. Chief among them are the town clerk, whose duties correspond to those of his colleague in England; the treasurer, the surveyor, the medical officer of health, and the sanitary inspector. These officials, with others of less importance, are appointed by the town council and hold office during its pleasure.¹ As a matter of practice, their positions are permanent. Subordinate officials and employees are also appointed by the town council. There is no system of civil service competition as in many American cities.

Similarity between the Scottish and English systems.

The permanent officials.

The town council has the general management of municipal finance.² It levies annual tax rates—partly on the owners and partly on the occupants of property. The burgh rate for general purposes is levied wholly upon occupiers; the other rates are partly levied upon owners of property.³ About two-thirds of the tax income in a Scottish burgh is paid by tenants. Money for the support of the schools and for the care of the poor is not raised by the town councils but by the parish councils. Municipal revenue from taxation is supplemented by grants from the British exchequer for various purposes. Out of this revenue, obtained by taxation and subsidy, the town council votes the appropriations for the year. It provides for the construction and maintenance of local highways, for the cleaning and lighting of streets, and for the regulation of traffic. It provides

General powers of the town council in Scotland.

¹ The medical officer and the sanitary inspector may not be removed without the approval of the Scottish board of health.

² A tabular comparison of local finance in Scotland and in England is given in Alban Lamb and Imrie, *Scottish Local Government Finance and the Law Relating Thereto* (fifth edition, London, 1925).

³ Some of the older burghs derive considerable revenue from "the common good," as it is called; namely, from lands and buildings owned by the municipality.

water supply and sewerage, fire protection, parks and public recreation; it controls the building regulations and the granting of most licenses (but not licenses for the sale of intoxicating liquors). It has authority to acquire, own and operate gas works, and may be given authority for the ownership and operation of electric lighting plants and street railways. Like the English borough council, it may make bylaws for the general good and convenience of the people.

Local
organiza-
tion for
poor
relief.

In Scotland the care of the poor is not entrusted to the municipal council, nor has it been devolved upon boards of guardians in poor-law unions as in England. There are no poor-law unions in Scotland. Poor relief there is a function of the parish council,—indeed the principal function of this body. The members of the parish council are elected by the voters, simultaneously with county councillors in rural parishes and with town councillors in the burgh. An exception is Glasgow, where town council elections and parish elections are held on different days. There are 870 parishes in Scotland and they vary enormously in population. The smallest has less than a hundred people; the largest (one of the eight Glasgow parishes) has more than half a million.

Summary.

Municipal government in Scotland has a reputation for efficiency and thrift. The success of the burghs in getting full value for expenditures is partly attributable to a trait in the Scottish national character. But it is also due, in some measure, to sound and conservative municipal traditions. More particularly it may be traced to the care with which the permanent officials of the municipality are chosen, the support which they receive from the council, and the security of tenure which they enjoy. The largest of the Scottish municipalities, Glasgow, has for many years been extensively engaged in the operation of public utilities and has been notably successful in this field—perhaps more distinctly so than any other city of Europe. It has municipal gas, electricity, telephones, and street railways, besides a large number of municipal tenements,—and its net profits from these activities are considerable, although hardly so large as some enthusiastic advocates of public ownership would have us believe.

The political history of Ireland is very different from that of Scotland. Among other things, Ireland was not permitted to

develop a vigorous municipal system of her own—at any rate, not until very recent years.¹ Various features of English local government were imposed upon the country, as, for example, the boards of guardians for the administration of poor-law relief. Not until 1898 were elective county councils established in Ireland, taking over the administrative functions which had long been in the hands of grand juries—including the fixing of the county tax rate. The Irish counties are divided into rural and urban districts as in England, but not into parishes as in Scotland. There are no parish councils in Ireland. The English analogy was also followed in the matter of incorporated boroughs; a few of the older and more important Irish towns being given this status, with the right to have their own mayors, aldermen, and councillors. The Local Government (Ireland) Act of 1919 made some changes in the system and brought it even more into conformity with the English model. This statute provided, however, for the holding of local elections according to the principles of proportional representation, thus departing from English practice.

Irish local government prior to 1922.

Then came a shift in the situation. During the years 1921-1922, by the terms of a treaty which subsequently obtained ratification by statute, the Irish Free State was established and given full control of local government in the twenty-seven administrative counties of Southern Ireland. Laws relating to British local government no longer apply to Ireland, nor are Irish municipalities supervised by the central departments in London. Supervision, such as it is, now comes from Dublin. It was provided, however, that all local government areas and authorities should be continued until changed by the Free State parliament. This parliament has a free hand in dealing with local government, for the Irish constitution places no restrictions upon it. The remaining six counties are outside the limits of the Free State and have been placed under the jurisdiction of the parliament of Northern Ireland.

The Anglo-Irish treaty.

Since 1922 the local government of the Irish Free State has not been greatly altered, although some important changes have been made. The county councils remain as before, but their

The present system.

¹ For an outline of Irish municipal history see John J. Hargan's article on "Local Government in Ireland under the Free State", in the *National Municipal Review*, xv, pp. 449-454 (August, 1926).

powers have been considerably increased by the abolition of the poor-law guardians and the transfer of their work to the larger bodies. The authority of the urban district councils has been extended, but the rural district councils were abolished by the Irish Local Government Act of 1925. There are now sixty-two urban districts in the Irish Free State, each with an elective council but with no aldermen or mayor. There are nine boroughs, of which four (Dublin, Cork, Limerick, and Waterford) are county boroughs. The other five are municipal boroughs, and the differences between the two are much the same as in England. Ireland is not a land of large municipalities. Only two cities have populations above one hundred thousand and there are only eight with more than twenty thousand inhabitants.

The government of the Irish borough consists of a mayor (or lord mayor), aldermen and councillors, as in England. The councillors and aldermen are elected at the same time, in accordance with the principles of proportional representation, by direct popular vote. Those who stand highest at the polls become aldermen, while the rest of the elected candidates rank as councillors. But both are chosen for the same term of three years and retire together. This, it will be noted, is a departure from the English practice of having the aldermen indirectly elected and giving them a longer term than the councillors. The suffrage at municipal elections extends to all persons of either sex who have reached the age of twenty-one years and who are occupants of any land or other taxable premises within the borough. Women are eligible to candidacy on the same terms with men.

The powers of the Irish town councils have been somewhat enlarged since 1922 and are now more extensive than the council's powers in the English boroughs. Much of the routine work is done through standing committees and due regard is paid to the advice of the permanent officials. But neither committees nor officials have final powers in most matters. The ultimate authority rests with the council as a whole. The council's authority is exercised, however, under the supervision of the minister of local government at Dublin. This minister is a member of the Free State executive council or cabinet. As such he is responsible to the Dail Eireann or Free State assembly.

A recent and very striking innovation is the setting up of a

How an
Irish
borough
is gov-
erned.

The
council.

Its
powers.

central Public Appointments Commission with power to control the selection of the permanent officials in Irish counties, urban districts, and boroughs. This commission consists of three members, namely, the secretaries of the ministry of local government, education, and finance respectively. All vacancies among the permanent officials in the cities (for example, in the office of town clerk, town treasurer, borough surveyor, medical officer, even in subordinate positions) are hereafter to be filled by this central commission. In making its selections the commission may utilize the services of a local appointments board, chosen by itself. This local board interviews the applicants, examines their records, and makes a report on their qualifications. When a permanent official is appointed to a position in any Irish city he may not be removed except by the executive council (or Free State cabinet) on the recommendation of the minister of local government. In this way the entire power of appointment and removal has been taken away from the local authorities and centralized in Dublin. So radical an arrangement, if left in operation, will eventually change the whole temper of Irish local government.

Central appointment and removal of municipal officers.

The Free State system of municipal administration is now in transition. Quite wisely, the higher authorities did not begin by abolishing the old system root and branch, but decided to transform it gradually. In many of its essential features the old forms of local government were well adapted to the needs of Southern Ireland, but they were sometimes lacking in responsiveness to the wishes of the people. The endeavor is now being made to simplify the machinery of local government and to increase the amount of central control over the local authorities.

An era of transition.

But an era of transition is usually a difficult one, and there has been some friction in Ireland between the local and the national authorities. In a few cases the latter have had to take the drastic step of suspending the local council and putting an appointive commission temporarily in its place. It is not easy to get the whole truth as regards these controversies. Apparently the political system in Southern Ireland is not yet fully stabilized.

This is illustrated by the present situation in Dublin, the capital city of the Free State, where the municipal council has been

The government of Dublin.

abolished and an appointive commission of three members installed in its place—almost exactly as in Washington, D. C. Although originally intended as a temporary measure, this plan of governing the capital city is likely to become permanent in Ireland as it has done in the United States. Meanwhile a parliamentary commission has been appointed by the Free State government to consider the whole question of Dublin's municipal organization, including the project of creating a Greater Dublin through the incorporation of various suburban towns.

The police
system.

Strangely enough, there is no municipal police system in the Irish Free State. The borough council has nothing to do with local policing. Instead there is a single, unified police organization for the whole Free State. It is known as the civic guard and is controlled by the minister of justice. He assigns its personnel to duty in both country and town. A portion of the cost, however, is paid by the local authorities, the money being raised by local taxation.

In Northern Ireland (sometimes known as Ulster) the six counties have elective county councils as in England. There are about thirty urban districts within these counties, each with an urban district council which is elected by the people. The two chief cities of Northern Ireland, namely, Belfast and Londonderry, have borough governments which closely correspond to those of England.

CHAPTER XI

FRENCH MUNICIPAL HISTORY

Most French cities have had a very long and chequered history. Some of them, as their present names indicate, go back to Ligurian times. The Ligurians were the tribes which occupied the territory between the Pyrenees and the Rhine some seven or eight centuries before the dawn of the Christian era. We know very little about them or their history. Then came the Gauls or Celts from the regions of the Baltic and the North Sea. Beginning in the sixth century B. C. these invaders from the north descended upon the land and overran most of it. They created settlements and many of them became towns of considerable size.

Ligurian
France.

The
coming of
the Gauls.

Hence there were cities in Gaul when the Romans, in their great drive to the westward, overran that territory under the leadership of Julius Cæsar. These cities were not destroyed by the Latin conquerors but were built up, improved, and made prosperous. Paris was an important center in Roman times; so were Marseilles, Bordeaux, Tours, and Amiens. The Romans introduced into each Gallic *cité* or *civitas* a form of municipal organization with magistrates or *duumvirs* who administered justice and maintained public order. Each Gallo-Roman city, moreover, had a senate and a *curia* or council. In some cases there was a wide range of municipal activities—good roads were built, parks and public baths maintained, a water supply provided, and all sorts of public entertainments furnished for the people. There was a regular system of taxation and finance in these provincial cities of the empire. But the Romans eventually withdrew from Gaul, as they did from Britain, and left the land a prey to barbarian invaders. Then the cities were pillaged and despoiled. Their populations dwindled until most of them became mere villages; in some cases they disappeared altogether. Others owed their preservation to the influence of the Church,

The
Roman
conquest.

How the
Gallo-
Roman
cities were
governed.

which zealously protected those cities which were the seats of bishoprics.

The history of municipal development in France contains one very dismal and sordid chapter, the one that covers the four centuries between 500 and 900 A. D. which are commonly called the Dark Ages. Municipal historians have toiled hard to illumine them, but until recently without much success.¹ We know that invaders from the north once more came upon the land, this time the Franks, from the regions of the Lower Rhine. These conquerors brought with them no municipal system of their own, so they merely retained what the Romans had established, but perverted it to the advantage of their own leaders. The Frankish monarchs parcelled the country among their chief noblemen, or counts. The city, including the surrounding area, became a county over which the count ruled in the name of the king. They were harsh rulers for the most part, these Merovingian counts, and some of the reddest bloodstreaks in the annals of mediæval France mark their trail. They sometimes plundered everything in sight, including the churches, and despoiled the inhabitants until life in the towns was hardly worth living.

Even when Charlemagne and his Carolingian administrators improved the system of local government, the cities failed to make much progress. The counties remained, and the counts continued to rule them, although they were now held to somewhat better ways by means of special delegates (*missi dominici*) who went from place to place on journeys of inspection in the monarch's name. Existence was still uneasy and terrified, for even when the monarch sought to protect his people against misrule and baronial avarice he was often powerless to do it.

About the beginning of the tenth century, however, town life in France began to revive. The counts had become vassals of the king and they in turn were giving fiefs to subordinate lords. Thus took place a general parcelling of land and jurisdiction. In a word feudalism was now gaining a strong foothold, especially in the northern part of the country, and the feudal lords made it their business to protect the towns which lay within their territories. True, they taxed the townsmen for it, made them do

¹For a discussion of the conditions in French cities during the Middle Ages the reader may be referred to Henri Pirenne's interesting little book on *Mediæval Cities* (Princeton, 1925), especially chap. iii.

French urban life after the Romans withdrew.

The coming of the Franks.

The era of the Merovingian counts.

The revival from the tenth century onwards.

military service, and sometimes oppressed them woefully, but at least they kept banditry under control and enabled the towns to grow. And as these towns grew in size they naturally began to seek some measure of relief from feudal taxation and control. They wanted emancipation. They desired to be free communes. The king, desiring to create a counterpoise to the power of his feudal lords, often sided with them in their ambitions. So there took place, during the eleventh and twelfth centuries, a series of urban revolts in the course of which many French towns managed to throw off the baronial yoke and to become, for a brief space, free cities. Marseilles, Toulouse, Lille, Amiens, Douai, Laon, and other communes gained their emancipation from feudal control in this way. At Amiens it took four years of fighting to do it. Lille, more fortunate, got its freedom without any bloodshed at all. Other towns were not strong enough to coerce the lord or the bishop and hence had to purchase charters of emancipation like the boroughs in England.

The urban
emancipa-
tions.

The degree of emancipation obtained by the various French towns was as varied as the means employed to secure it. In some cases the feudal lord gave up very little, merely agreeing not to tax the town beyond a certain point or to imprison the townsmen arbitrarily. Other towns secured comprehensive charters of liberty entitling them to elect their own local officers, to make their own bylaws, to be exempt from outside taxation, to have their own courts, and even to maintain a military establishment of their own. They became free communities with only a shadowy allegiance to the king and were governed by magistrates of their own choice, among whom the principal was a major or mayor.

Nature of
this new
freedom.

But they did not remain free communities very long. Having gained the right to govern themselves, the townsmen almost invariably fell to quarrelling about it. The well-to-do endeavored (usually with success) to exclude the poor from a share in the town government. In some towns the authorities could neither maintain order nor raise enough money to keep things going. So the king presently intervened in the interest of law and order. He straightened out the affairs of the towns and sometimes paid their debts. But having done all this, he was usually disposed to say, "Now you have had my help—I will see to it that you do not run into difficulties again." Royal officers were accord-

Its sub-
sequent
loss.

ingly placed in charge; the old charters of emancipation were often replaced by royal charters or "institutions of peace" as they were significantly called. In this way, municipal self-government was slowly but inexorably taken away. The townsmen, in the end, found that they had merely traded masters. They had got rid of a duke or baron or bishop; but only to find themselves under the sway of a more powerful personage, the king. By the close of the Middle Ages (1500) there was very little municipal democracy left in France.

Nor was any progress toward local self-government made during the long interval between this date and the outbreak of the French Revolution in 1789. On the contrary, the little that remained was taken away. Louis XIV issued a series of ordinances by which he abolished the last of the locally elected officers and replaced them by hereditary functionaries. The ostensible reason was that elections often resulted in local disturbances; the real reason was that the king needed money and found that he could obtain a good deal of it by selling offices with hereditary rights attached. Most of the officials appointed under the system were incompetent, but it made little difference for they had no independence of action and all that they did was closely supervised from above. The royal intendants and sub-delegates were entrenched in all the chief towns, ordering and arranging everything in accordance with the king's instructions.

Meanwhile the towns grew slowly, due to the fatuous policy of keeping all economic activity under paternalistic regulations. France was then, and still is, rich in the materials of industry; but industry developed very slowly during the sixteenth and seventeenth centuries, being hampered by countless restrictions. There were octrois levied at the city gates and tolls at frequent intervals along the rivers. Within the towns the old gilds or jurés continued to control such industry as there was, and they controlled it strictly, permitting none but their own members to engage in the handicrafts. Then, as now, France was well located for seaborne commerce, having a frontage on two oceans. But commerce did not thrive, even though Richelieu and Colbert made heroic efforts to stimulate it. France also tried to found colonies, but did not make a success of it. Finally, a succession of long and costly wars depleted the economic resources of the country.

The early
modern
period—
1500-1789.

Slow
growth of
the French
towns.

As the eighteenth century wore on, things moved from bad to worse. Municipal offices were sold at higher prices and the successful bidder, in the attempt to recoup himself, was compelled to practice extortion in its varied forms. Hence the townsmen were heavily taxed and got little in return—no street pavements, water supply, sewerage, and almost no police protection. The provincial towns had little intercourse with the seat of government save when press gangs came from Paris and carried off the young townsmen for service in the army, or when *lettres de cachet* arrived and ordered older townsmen into prison without a trial and for indefinite terms.

The eve of
the Revolution.

Paris, in the middle of the eighteenth century, bore no resemblance to the City of Light that she was destined to become in the course of the nineteenth. A place of perhaps 750,000 inhabitants, her streets were poorly paved and even more poorly illuminated. The sewage of the city ran in open drains or wooden conduits to the Seine, which also served as the source of the public water supply. Fever and cholera were rampant at all times. Tallyrand once said that no one who did not know Paris before the revolution could appreciate the joys of living in it. Yet Paris of the old régime was full of disease, poverty, illiteracy, and ruffianism. Only the privileged classes, of whom Talleyrand was a member, could have found much satisfaction in the place. The masses of the population were sullen and resentful, awaiting their hour to strike.

Paris
before the
great
collapse.

Then, as in a flash, came the great upheaval. The Paris mobs surged against the Bastille on July 14, 1789, and inaugurated the greatest of all revolutions. The whole structure of despotism, caste, and paternalism came tumbling down. The king went to the guillotine while a revolutionary Assembly kept sweeping away old institutions one by one. Revolutions usually spend their force upon the national government, leaving local institutions almost untouched, but not so the French Revolution. It was thorough. It revamped the whole political system of France from top to bottom. It effected a complete break between the old régime and the new. The student of French municipal institutions, if he be antiquarian in his tastes, will find much that is interesting in the epoch preceding 1789, but for practical purposes there is no need to spend much time on these preliminaries. French municipal history really dates from the revolution. The

The Revolution in
the towns.

new municipal system carried over almost nothing from the age that went before.¹

One of the first acts of the constituent assembly was to destroy, root and branch, the old fabric of local government and to set up in its place one that was democratic, uniform, and symmetrical. In this reorganization, effected in 1789, the 44,000 or more traditional local units known as the *paroisses* or *communautés d'habitants* were decreed to be areas of local self-determination and were provided with a simple framework of government. According to the provisions of this decree, each commune was henceforth to have a mayor and council chosen by the citizens upon a basis which came very close to manhood suffrage, for only the very poorest among the citizens were excluded by the small property qualification prescribed.² It was, indeed, the design of the law to treat the communes as miniature republics, with power to select their own local rulers and with authority to manage their affairs free from any interference on the part of the higher officials. The most striking feature of the law of 1789 was, therefore, the provision which it made for a system of local government at once democratic and decentralized.³ During the years 1789-1790 this plan was applied to all the communes of France, large and small.

But like most of the legislation of the constituent assembly, the decree reorganizing the communes went too far and too fast. It intrusted too much power, without central supervision, to people who were novices in the art of managing their local affairs. In obedience to the revolutionary passion for equality and uniformity, the framers of the decree of 1789 lost sight of the important difference in needs and problems between urban

¹ On French municipal history and institutions, prior to the Revolution, material may be found in Albert Babeau's *La ville sous l'ancien régime* (Paris, 1880); Amédée Gasquet's *Précis des institutions politiques et sociales de l'ancienne France* (2 vols., Paris, 1885); Achille Luchaire's *Les communes françaises* (Paris, 1890); Adhémar Esmein's *Histoire du droit français* (8th edition, Paris, 1908); and H. Berthélemy's *Traité de droit administratif* (3d edition, Paris, 1905).

² *Décret sur les municipalités* (December 14, 1789). The terms of this decree may be found in J. B. Duvergier's *Collection complète des lois, décrets, ordonnances, règlements, avis du conseil d'état* (107 vols., Paris, 1834-1907), I, 63-67; and in F. A. Hélie's *Les constitutions de la France* (Paris, 1880), i, pp. 59-72. An English translation is printed in F. M. Anderson's *Constitutions and Other Select Documents Illustrative of the History of France* (Minneapolis, 1904), pp. 24-33.

³ Decentralized it was, with a vengeance, for some of the communes contained only a dozen inhabitants or so.

The decree
of Decem-
ber 14,
1789.

Its pro-
visions
went too
far.

and rural communities; for they sought to apply to all alike a framework of administration which hardly sufficed for the former and was much too complex for the latter. The most cardinal defect of the system, however, was its almost entire abolition of central control over the municipalities; a step that compromised the public security and deprived the authorities at Paris of the power necessary to check the local disorders with which France was convulsed during the next four or five years.¹ Even after the lapse of more than a century the French people have not proved themselves fitted, either by temperament or by experience, to carry out smoothly a plan of local self-government such as that which the assembly sought to establish in 1789.

At any rate, the lapse of a few years served to disclose the defects of the new law. The system of local freedom which it established proved unequal to the strain and stress of the Red Terror. Thousands of communes passed under the sway of local adventurers who claimed to be the choice of the people but who held their positions by force and fear. These bosses were more oppressive and far more brutal than the Bourbon magistrates had been, and more capricious in their ways. They squandered the money of the taxpayers and often sold the communal lands to pay current expenses. Riots and disorders were of almost everyday occurrence and the guillotine was kept working to full capacity. The leaders at Paris became alarmed at this drift in affairs. They feared that chaos in the provinces might lead to a counter-revolution unless it was promptly checked. The Parisian leaders were believers in the principle of municipal home rule, but they now recoiled from the excesses which came with the practice of it.

The
excesses
to which
it led.

In 1795, therefore, when the resolution entered its second and more orderly stage under the Directory, the national government decided to bring the communes under stricter central control. In the new constitution of that year there were accordingly inserted a number of provisions dealing with the revision of the municipal system.² The principle of allowing the

The
reaction
in 1795.

¹ On the working of this system during the period 1789-1795; see E. Lavisse and A. Rambaud's *Histoire générale du IV^e siècle à nos jours* (12 vols., Paris, 1896-1908), viii, pp. 79 ff.

² *Constitution du 5 fructidor, de l'an III* (August 22, 1795), in Duvergier's *Collection*, viii, pp. 223-242; printed also in Hélie's *Constitutions*, I, 466-493, and in Anderson's *Constitutions and Documents*, pp. 212-254.

citizens to elect their own governing officials was retained, but the responsibility of these officers to the national authorities was definitely established. For the moment, in accordance with these provisions, the canton replaced the commune as the basic unit of local government. Every commune of any considerable size was made a canton, with its administration vested in the hands of a cantonal directory of from five to nine members elected by the citizens; and the smaller communes (including all those of less than five thousand population) were grouped into cantons, thus losing their autonomy and becoming mere administrative divisions of the larger areas. In other words, a system of commission government was established for the larger communes and for groups of smaller ones. The three largest cities of France—Paris, Lyons, and Marseilles—were each divided into three or more municipalities, with a special administration designed to insure the possibility of stricter supervision by the national directory.

Although the law of 1795 had undoubted merits, in that it rendered more easy the task of maintaining local peace and order, the new arrangements were unpopular with the people. The canton was a purely arbitrary division, with no historical traditions and no unity of feeling. The commune was the only local unit to which Frenchmen owed any sentimental allegiance, and in failing to utilize it as the basis of local administration the national authorities made a serious mistake. The whole scheme was a compromise, a half-way reaction, which aroused no enthusiasm anywhere, although it helped the authorities to stem the drift toward anarchy.

The system of municipal government established by the Directory remained in existence until 1800 only, when the advent of Napoleon Bonaparte to power as first consul of France dictated a further change.¹ In some respects the Napoleonic reorganization may be looked upon as a development of the system of 1795, for it elaborated and greatly strengthened the lines of national control over local affairs; in other respects it was a reaction, for it recognized the commune once more as the fundamental unit of government. The cantonal divisions were retained but

A defect
in the law
of 1795.

The next
step:
Napoleon's
reorganiza-
tion of
1800.

¹ *Constitution du 28 pluviôse, de l'an VIII* (February 17, 1800), printed in Duvergier's *Collection*, xii, pp. 78-116; Hélie's *Constitutions*, i, pp. 611-626; and Anderson's *Constitutions and Documents*, 283-288.

they became, under the Napoleonic system, mere judicial districts. Napoleon's constitution provided that every commune¹ should henceforth be governed by a mayor, one or more adjoints, and a municipal council of ten, twenty, or thirty members according to the population of the municipality. But mayor, adjoints, and councillors were all to be appointed by the central government, either directly or through its agents, the prefects. Thus the eleven years of decentralization and democracy came to an end. Revolution was followed by reaction—as almost invariably happens.

A great deal of legend clusters around the name and fame of the first Bonaparte. He professed adherence to the *Liberté, Égalité, Fraternité*, of the Revolution, but his rulership marked a reaction from all of them. He gave the cities and towns of France no new liberty; on the contrary, he took away from them a large part of what they had secured before his elevation to power. Napoleon Bonaparte was not a democrat by temperament or conviction. He did not believe in making France, much less the world, safe for democracy. He abhorred anarchy in all its forms and could not understand that license always goes with new-found liberty. He was an apostle of order, discipline, and symmetry. Although constantly doing lip-homage to the "will of the people," he saw to it that this will was always expressed in accordance with his own desires. He believed in constitutions—provided they were "short and obscure". He believed in local self-government—under rigid supervision. He believed in plebiscites—provided his own minions manned the polls. "I'd give the people votes", says Mr. Dooley, "but I'd do the countin'." That was Bonaparte's philosophy.

The most striking feature of the Bonapartist system was the establishment of machinery by which the firmest sort of control and supervision might be exercised from Paris over every one of the 36,000 communes. To this end the departments (administrative districts into which France had been divided by the revolutionary government) were each provided with an official known as a prefect, directly appointed by the national authorities and responsible to them alone. These officers differed but little, either in method of appointment or in the wide scope of

The Napoleonic legend in local government.

How Napoleon recentralized the whole system.

1. The departments and the prefects.

¹ By the elimination of the smallest ones, the number of recognized communes was now reduced from 44,000 to 36,000.

their powers, from the much-maligned intendants of the Bourbon era; and the fact that they now became the strongest link in the chain of Napoleonic administration affords an interesting illustration of the way in which a violent reaction against administrative centralization sometimes results in nothing more than a change of names. In this case it brought also a change of attire. The old intendants sometimes wore a military uniform; the new prefects were invested with a new half-military, half-civilian regalia. Napoleon believed with Shakspeare that "the apparel oft proclaims the man", so he decked out his prefects in blue coats, white breeches, silvered collars, red scarfs, three-cornered hats, and drawing-room swords. "Your functions", he declared to them in an explanatory circular, "include all that pertains to the public wealth, prosperity, and peace". Surely a large commitment to these eighty-three lieutenants of the First Consul!

2. The
arrondisse-
ments and
the com-
munes.

By the constitution of 1800, moreover, the departments were parcelled into new administrative divisions called *arrondissements*, each with a subprefect who was vested with jurisdiction substantially similar to that possessed by the subdelegates of the old bourbon dispensation, but who now became the agents of the prefects. Finally, in the communes, the mayors were appointed by the national government on the advice of its underlings in the department and the *arrondissement*. Though this chain of appointive prefects and subprefects and mayors the central government now felt that it could make its will and decisions effective in every nook and corner of the country. It was a government endowed with thirty-odd thousand pairs of eyes and ears. It had its man watching things in every hamlet—and somebody watching him. The whole organization could be charted in the form of a perfect equilateral, the people at the base, the First Consul at the apex, and the hierarchy of officials in between. In its way it was a great stroke of creative statesmanship, this Napoleonic organization of French local government in 1800, for it represented the most nearly perfect scheme of centralization that the world had produced during all the centuries down to the Corsican's time.

This Napoleonic scheme of centralized administration deserves more than a passing mention: for not only have most of its salient features been retained in France down to the present time, but its influence upon municipal government in other countries—

in Italy, Belgium, Spain, Greece, Japan, and the South American republics—has also been very great. Apart from its lack of democracy, and judged only by its qualities of permanence as well as by its influence abroad, the “constitution” of 1800 is a remarkable document, worthy to be ranked with the Code Napoléon as a legislative monument of world renown. For Bonaparte’s municipal code, like his civil code, has spread over half the world. It has gone to countries where his tricolor never waved. If England, during the past century, has been the mother of parliaments and has exercised a dominant influence upon the evolution of national governments everywhere, France has had an equally important rôle in moulding systems of local administration among the nations. She has made centralization triumph in many lands. The Anglo-American doctrine of municipal home rule, with freedom from central supervision, has not commended itself to most Continental countries. They want self-determination for themselves, it is true, but they have been by no means so ready to bestow it upon their own provinces or cities. They agree with an eminent French publicist that while municipal home rule may be “a principle excellent in itself”, the practice of it must be subordinated to the national interest. “Otherwise the commune would exhaust the taxpaying ability of the citizens and the state would find itself confronted with a flock of shorn sheep.”¹

This scheme of local government has spread widely.

The fall of the Napoleonic empire in 1814-1815 did not bring about any important changes in French local government, for although the Bourbons were now restored to the throne (with a curtailment of their old royal prerogatives), there was no revival of the ancient despotism. The old dynasty came back but did not bring the old régime with it. The restored Bourbons were willing to let well enough alone. So the Napoleonic system of strict prefectorial supervision over the municipalities and of appointive local officers was retained intact and remained unaltered during the fifteen years of the restoration. But in 1830 the Bourbons were once more ejected from the French throne, this time by the Little Revolution, and Louis Philippe of the House of Orleans became king. France was to remain a monarchy, but to be a liberal monarchy. Among other things, the “Citizen

The French municipal system under the restored Bourbons, 1815-1830.

¹ Joseph Barthélemy, *Le gouvernement de la France* (Paris, 1919), p. 176.

King" promised a reform of municipal institutions based upon the principle of home rule.

And under
the Orleans
monarchy,
1830-1848.

This promise was only in small part redeemed. The new government proceeded to give the citizens a share, but not a large share, in the selection of their own municipal officers. By an act passed in 1831 provision was made that the municipal councillors should be indirectly elected by those citizens of the commune who possessed certain prescribed property or educational qualifications. The mayors and adjoints were to be appointed, as before, by the national government on the recommendation of the prefects, but they were to be chosen only from among the members of the municipal councils. All this represented a very slight step toward local self-government. The Orleans monarchy, like the Bourbon royalism which preceded it, was afraid to jeopardize tranquillity by relaxing central control. No lessening in the strictness of central control over municipal affairs was effected by the act of 1831; but some six years later a limited amount of independent jurisdiction, especially in the matter of initiating local improvements, was given to the municipal councils.

Under the
short-lived
Second
Republic,
1848-1852.

When France once again became a republic in 1848, the new constitution made explicit provision that in all municipal elections the principle of manhood suffrage must be given full recognition.¹ Accordingly, in all the communes, municipal councillors were now elected by the adult male citizens. As a further step in the direction of decentralization, the municipal councils in communes of not more than six thousand inhabitants were permitted to select their own mayors and adjoints without any interference on the part of the prefects. In the larger municipalities these officials continued to be appointed from above—always, however, from the ranks of the councilmen. These were substantial concessions in the direction of democracy and home rule, but they did not long endure; for within four years the Second Republic became the Second Empire and the change in national administration speedily reflected itself in the areas of local government. In 1852 the smaller communes lost the privilege of choosing their mayors and in the same year the national gov-

And under
the Second
Empire,
1852-1870.

¹ *Constitution de la République française* (November 4, 1848), par. 79, in Duvergier's *Collection*, xlviii, pp. 560-609; Hélie's *Constitutions*, ii, pp. 1102-1129; and Anderson's *Constitutions and Documents*, pp. 522-538.

ernment abolished the rule which required that mayors and adjoints in the larger municipalities should be appointed from among members of the council.¹

Throughout the period of the Second Empire the election of the councillors was ostensibly left in the hands of the voters, but in most of the larger cities the whole electoral process became a sham. Supporters of the national government were designated as "official" candidates at every election, and the entire influence of the administration at Paris was exerted to ensure their election. When this failed, the ballot box was stuffed and manipulated with a boldness that astonished even the satchems of Tammany Hall in the frivolous fifties of the nineteenth century. Tampering with the ballots was not difficult in France under the ægis of the Third Napoleon, because the counting was always postponed until the day after election. Overnight, the polling officer took the ballot boxes home "for safekeeping" and being a true friend of the national government, he usually saw to it that the contents counted right when the time came. It should be explained, of course, that the form of ballot commonly known as the Australian ballot was not used in France at this time. Any piece of white paper with the name of a candidate printed or written on it was counted, if found in the box. Hence there was no security against electoral frauds.

In other ways the national government, during the Second Empire, gave municipal self-government a setback. Soldiers were stationed at the polls. Newspapers which opposed the official candidates were on various pretexts made to feel the wrath of the authorities. Permits for public meetings were withheld from the opposition, or such meetings were raided and broken up. What the Second Empire gave to the municipalities was only a mere shadow of freedom. It bestowed with the right hand and took away with the left.

But in spite of all this interference and pressure, the official candidates were sometimes defeated.² The councils in many of the communes passed under the control of elements unfriendly to the imperial gangsters at Paris. In such cases, however, the independence of the voters availed them little, for the council

How Napoleon III controlled the government of the communes.

Official candidates and electoral manipulation.

Various forms of intimidation.

The strict control of local affairs.

¹ *Constitution du 14 janvier, 1852*, Title VIII, par. 57, in Hélie's *Constitutions*, ii, p. 1171.

² Louis Puech, *Essai sur la candidature officielle en France depuis 1851* (Montpellier, 1922).

could do nothing of much importance without the prefect's approval—and the prefect was always to be relied upon. At a word from Paris he was ready to meddle with anything, great or small. If the municipal council wanted to lay a new pavement it had to consult the prefect; and he, with an eye to the interests of his imperial master, sometimes ruled that a street must not be paved with stone blocks because they could be too easily torn up and built into barricades during a riot! When a municipal council resented this capriciousness, as it sometimes did, and disregarded the prefect's dictation, it could be dissolved by order of the imperial government. In several cases this drastic action was taken, the council being replaced by an administrative commission. So the councils as a whole became cowed and impotent. Most of them did little but vote money when they were called upon to do so. They had no voice in spending it.

Napoleon
III's pro-
fessions
and his
practices.

Under such conditions all vigorous municipal life disappeared. Large numbers of citizens ceased to vote at the council elections, being convinced that voting served no useful purpose. Napoleon III, who was emperor of the French during this period, claimed to be a tribune of the people and a friend of democracy. In this he was like his uncle, the great Corsican. Like him also, however, the pinchbeck Bonaparte was extremely shy when it came to making his professions effective. From the writings of Napoleon III one would have taken him to be a socialist and a pacifist. His *Idées Napoléoniennes*, if you read them now, sound like a curious mixture of socialism and pacifism. But he never carried them into practice. In action he was everything but a socialist or a pacifist. He hounded the socialists out of the land and fought three European wars within two decades.

Still, France was very prosperous during the earlier years of the Second Empire and in eras of material prosperity the people will put up with a good deal of political oppression. It was only when business began to grow bad, after 1865, that the inherent weakness of the Second Empire disclosed itself. Thereupon a timid and bewildered effort was made to relax the centralization and give the people more freedom; but the change of heart came too late. Another revolution was looming on the horizon. Before it could materialize, however, the collapse of the Second Empire was accelerated by the reverses encountered in the

Franco-Prussian War of 1870. Napoleon III launched into this conflict with absolute confidence, staked his throne on the issue—and lost. With his army, he was overwhelmed at Sedan and taken prisoner. When the news of this surrender reached Paris the crowds surged into the streets, the barricades went up, the empress fled to England, and the Third Republic was proclaimed. Compare the Paris of September, 1870, with the Berlin of November, 1918, and you will find a remarkable array of parallels.

The fall of his empire in 1870.

While the Germans were still occupying a large part of France, a national assembly was elected by the French people to organize a new government, and this body soon turned its attention to a reform of the municipal system. But it could not take time to study the question thoroughly or elaborate a complete reconstruction. Other matters were more urgent—getting a treaty of peace signed, for example, and raising the German war indemnity so that the armies of occupation could be evacuated from French soil. Hence it was decided, as a temporary expedient, to revive the municipal system of the Second Republic, with manhood suffrage and free elections.¹ A few changes were made in the system but they were of no great importance. Central control, in all its essential features, was continued. The national assembly professed itself favorable to the principle of municipal home rule but did not dare to put it into operation.

The inauguration of the Third Republic and its effect on the municipal system.

This temporary arrangement served its purpose. It carried things along until the Third Republic had become firmly seated in the saddle. Modifications were made by law from time to time as occasion demanded, mostly in the way of new concessions to the cities. Home rule, as respects the choice of mayors and adjoints, for example, was granted in 1882. The unsettled state of affairs in France, however, made it prudent to go slow. No one could tell whether the Third Republic would last. There were times when it seemed likely to be overthrown, and it certainly would have gone to pieces if the monarchists had been united. In the end, however, the republic managed to ride out the various storms, and by the early eighties its permanence seemed to be assured. Thereupon the government felt itself able to undertake a careful and comprehensive revision of the laws and decrees relative to the municipalities. There was an ur-

The delay in framing a new municipal code.

¹ See *above*, p. 216.

gent need for this action, because the laws had become badly confused by a long succession of amendments, repeals, and substitutions. In 1883, accordingly, a commission of nine members was appointed to go through all the legislation relating to the communes, to collate the previous provisions, and to embody them in a comprehensive municipal code.

This commission completed its work early in the following year; and the code which it laid before the French parliament was, with some modifications, passed by both houses and duly promulgated on April 5, 1884.¹ A little later it was followed by an elaborate ministerial circular giving full explanations.

The commission did an excellent piece of work, for the *Loi municipale* of 1884 is a model of clearness and orderly arrangement. It contains in all one hundred and fifty-seven sections or articles, most of them brief. The student who goes through this code and understands its provisions will know all that any except the expert needs to know about the legal phases of French municipal administration. Since 1884 many amendments to the code have been made and eleven new articles added, but they have not changed the general framework. The code of 1884 continues to be the basis of village, town, and city government in France.² The only city excepted from its operation is Paris, which, like London, is treated as a special metropolitan area. Six other cities,—Lyons, Marseilles, Bordeaux, Toulon, Nice and La Seigne, have been excepted from the police provisions of the code and are under a special police régime; but apart from these deviations, all the cities of France are governed alike.

This is perhaps the most conspicuous feature of the French municipal code: that it makes no distinction between village, town, and city. All are included in the generic term "commune." At the census of 1921 there were 36,260 communes in France, excluding those in the redeemed provinces of Alsace and Lorraine. Of the total number, more than 18,000 had populations of less than 500; more than 2,000 had fewer than 100, and 137 communes had less than 50 inhabitants. On the other hand, there were nearly 300 with populations exceeding 10,000; 60 with more than 40,000; 15 with more than 100,000; two (Lyons and

¹ *Loi sur l'organisation municipale du 5 avril, 1884*, in Duvergier's *Collection*, lxxxiv, pp. 99-148.

² The best commentary on the French municipal code is Léon Morgand's *La loi municipale* (10th edition, 2 vols., Paris, 1923).

The Law
of 1884.

Its scope,
arrange-
ment and
contents.

Communi-
ties gov-
erned by
the code.

Marseilles) with half a million each, and Paris with more than three million. In area also there is great variation. The smallest commune in France covers a plot of ground about three hundred yards square; the largest (Arles) contains nearly four hundred square miles. Paris, of course, is the giant among these municipalities, being more populous than any other ten French cities put together. But the city on the Seine is not a commune in the ordinary sense; it virtually forms a department by itself. The Department of the Seine, which is the most populous of the eighty-nine territorial departments in the republic, is made up of Paris and a few small communes near by.

France is a land of villages and small towns, with relatively few large cities. Only about a fourth of her population is settled in the three hundred communes of more than ten thousand population. The large French cities have been growing more slowly than those of England, Germany, or the United States. This is partly because the total population of France has not increased substantially during the past fifty years, partly because the country gains almost nothing by immigration, and partly because agriculture is still the main reliance of the people.

The parcelling of the country into these thirty-six thousand municipalities, most of them mere specks of territory, has given rise to various practical difficulties. It is obviously hard for little groups of a few hundred people to provide themselves, single-handed, with public utilities. To help overcome such difficulties, therefore, a law was enacted in 1890 permitting the syndication or combination of several communes in cases where such action might seem desirable for particular services. This law was added to the text of the municipal code.¹ The arrangement under which these unions of municipalities are formed will be explained in a later portion of this book.²

Syndicated
communes.

The whole municipal system of France has been vigorously criticized from various quarters during the past few years. Complaint is made that the national government exercises too much control over the affairs of the communes, that its prefects meddle overmuch with things that ought to be left to the mayors and councils for final action, and that "the cells of the national organ-

General
defects
of the
system.

¹ *Loi du 22 mars, 1890, sur les syndicats de communes.* It now forms Title viii, Articles 169-179 of the Code.

² *Below*, pp. 316-317.

ism are being devitalized by the deprivation of local responsibility". Too much centralization, too much bureaucracy, too much paternalism, too much Paris, is the cry. There is a good deal of basis for this clamor. Such absolute uniformity as the French municipal code requires, and such extreme centralization, tend to deaden popular interest in local government. It was a Frenchman who said that municipal institutions constitute the strength of free nations. He was right. The great advantage of municipal home rule arises from the fact that it provides the people with a school of citizenship. It brings the government to every man's own door and compels him to take a share in it. Nothing is more deadening to local pride and civic spirit than the practice of letting some far-off, irresponsible functionary decide how much the police shall be paid, what the schools shall teach, and where the children shall play. Local responsibility is the oxygen that nourishes and vivifies the minute cells, the villages and communes, which make up the body politic as a whole.

But France, unhappily, is in bondage to her own history. History is to a nation what memory is to an individual—and a burnt child dreads the fire. The memory of revolutions, big and little, of riots, barricades, *jacqueries*, and red terrors,—that recollection still haunts the mind of the nation. The national mind associates central control with law and order. Or, to use a metaphor which Frenchmen like to employ, the whole nation was grievously smitten and wounded by the excesses which resulted from the home rule decree of 1789. Then came Napoleon, who bound up the nation's wounds, put splints on the broken bones, and brought things back to normalcy. Surely it is now time to take off the splints and bandages, for to all outward appearance the bones and bruises have long since healed—but the French lawmakers are not yet ready to see matters in that light. They are dominated by the rural tradition that free cities spell trouble, and the average French *cultivateur* feels that he has had trouble enough already. What he wants is to be let alone on his ancestral farm. Central control of town government does not bother him in the least, and so long as he dominates the politics of France municipal home rule is not likely to be a winning cause on the floor of parliament.

A nation
enchained
by history.

CHAPTER XII

CENTRAL CONTROL OF FRENCH CITIES

The municipal code of 1884 did not begin by defining a commune. To Frenchmen the term is historic and does not require definition. The commune is the basic territorial unit in France, all other areas (cantons, arrondissements, and departments) being multiples or divisions of it. According to French writers it possesses a "moral personality", or, as we would say in America, it is an "artificial person or corporation".¹ A commune may cover several cantons or even arrondissements, in which case the latter become divisions of the commune. Most of the communes have boundaries which antedate the revolution of 1789, but some of them are the result of rearrangements and consolidations which have taken place since that time. When it is desired to divide one commune into two, or to consolidate two or more into one, or to alter boundaries, the municipal code provides that an *enquête* or hearing shall be held by the prefect. This hearing may be requested either by one of the municipal councils concerned or by a prescribed number of voters. All the testimony taken at this hearing is then laid before the general council of the department. If approved by this body, a proposal of change is submitted to the Council of State and on its approval is embodied in a bill to be passed by parliament. So the process is a long and difficult one. Yet some consolidations and new creations take place almost every year.

The commune as a unit.

Creation of new communes and alterations of boundaries.

The name of a commune is more nearly inviolable than its boundaries. No change in name can be made except by a decree of the President of the Republic issued at the request of the municipal council. Action cannot be taken without this local initiative. And the president is not permitted to issue such decree unless the general council of the department has been con-

Changes of name.

¹ "La personnalité morale des communes remonte fort loin . . . Elles conservèrent cette personnalité jusqu'à la Révolution . . . La Révolution ne toucha pas à la personnalité morale des communes . . ." Maurice Hauriou, *Précis de droit administratif* (10th edition, Paris, 1921), pp. 253-254.

sulted and the Council of State has given its approval. Before consenting to a change, the postal authorities are always consulted in order to guard against any duplication in names. Even the method of spelling the name of a commune cannot be altered except by presidential decree. But the name of any section of a commune can be changed by the council itself, with the approval of the prefect.

The French commune, being a corporation at law, may sue and be sued, make contracts, and hold property. Its *corps municipal* or corporate authority consists of the council, the mayor, and one or more assistant mayors known as adjoints. This municipal body represents the commune in all its dealings with the inhabitants, with other communes, and with the higher authorities. No clear separation of powers is made between executive and legislative authority, but there is a somewhat comprehensive separation of functions. The council of the commune votes the money, but it leaves to the mayor, adjoints, and permanent officials the function of spending such appropriations.

It is sometimes said that the French city has "a broad grant of powers"; whereas the American city has power doled out to it in small helpings by an ungenerous legislature. The statement, when put in that form, is altogether misleading. It is true, no doubt, that the words of the French municipal code, as respects the powers of the city council, are uncommonly inclusive. "The council", says the code, "regulates by its deliberations the affairs of the commune". These words would seem to grant complete home rule to the communes, but in reality they are not intended to do anything of the kind. They mean that the council of the commune is entitled to deal with all local affairs *in the first instance*; that it has the right to initiate and propose; but not that it has in all cases, or even in most cases, the right to deal finally with the affairs of the municipality.

This suggests the calling of attention to the French practice of framing laws in general terms, without qualifying provisions, while reserving to the administrative authorities the right to modify the application of the laws. In the United States we frame the laws in great detail to cover every possible contingency. That is why our laws are so numerous and so long. We dislike giving a president or a governor the right to modify or expand the provisions of any statute, because that would be a departure from

Legal
status of
the
commune.

Its "broad
grant of
powers".

How broad
grants of
power are
qualified
in France.

the long cherished principle of government by laws, not by men.¹ In France there is no compunction about doing this. The laws often state a principle in very broad phraseology and then wind up with a provision that "an ordinance of public administration shall determine the application of this statute." Everything then depends upon the terms of this ordinance. They may greatly qualify the general principles laid down in the law, and very often they do so.

Accordingly, the provision of the municipal code giving the commune the right to regulate its own affairs does not mean what it says. A long series of ordinances and decrees have made it clear that the French municipality is entitled to self-determination so long, and only so long, as the conduct of its elective officers meets the approval of the higher authorities. In effect the national government has said to these 37,000 cities, towns, and villages of France, "Go ahead and run your own local affairs as you please. But we will watch you closely and intervene if need be."

It should not be understood, however, that the higher authorities have the right to intervene at any time and on any matter whatsoever. There are some things which come wholly within the jurisdiction of the local officers and are not subject to review from outside. There are other things with respect to which the council of the commune may exercise final jurisdiction unless the higher authorities interpose a veto. And finally there are some matters in which the approval of the latter must be obtained in advance. It would hardly serve much purpose to attempt a differentiation of these two last-named classes, for the distinction is not of great practical importance. If the approval of the higher authorities must be obtained, and can be denied, it does not greatly matter whether this comes first or last in the process of getting something done. Nor yet does it make much consequence whether the approval must be had from the President of the Republic, the minister of the interior, the prefect of the department, or the subprefect of the arrondissement. They are all cogs in the same supervising machine.

Three
classes of
powers
possessed
by the com-
munal
authorities.

Certain actions of the municipal authorities require approval from the chief of state. It is stipulated in the code, for example,

¹In the United States, nevertheless, we are being steadily driven to the practice of executive lawmaking. Year by year we are giving presidents, governors, and other executive officers more authority to fill in the lacunæ of the laws by "executive orders" or "administrative regulations".

The machinery of central control over local government:

1. The President of the Republic.

that any municipal budget which carries appropriations amounting to more than nine million francs¹ must be submitted to the President of the Republic, through the minister of the interior, and approved by him before it can go into effect. Those who understand the French system of ministerial responsibility need not be told, however, that the minister is the one who really exercises this approving power, for the President must act upon his advice.² The budget, as will later be explained, is prepared by the mayor and his assistants; it is then laid before the council, which may amend the mayor's figures at its discretion. It may increase, decrease, strike out, or insert any item. When the council has finished with the budget it is sent to the prefect, who transmits the document to Paris if the total expenditures are above nine million francs; otherwise the budget is reviewed in his own office. The municipal treasurers (*receveurs*), furthermore, are appointed in all the larger communes by the President on the recommendation of the minister of finance, the selection being made from a list of three names submitted by the municipal council. This is a precaution to ensure that the instructions of the higher authorities will not be evaded. If the latter decline to approve a municipal budget, the council must make such revisions as are demanded. Unless it complies with instructions in such matters the council may be dissolved by the President of the Republic, who may then order a new election or temporarily replace the council by an appointive commission.

2. The ministry of the interior.

The supervision which the French national government exercises over the affairs of the communes is headed up, for the most part, in the ministry of the interior. The minister of the interior is a member of the French cabinet and holds one of the most important posts in that body. Like the other members of the cabinet, he is chosen by the prime minister and is responsible to the French parliament. Technically he is responsible to both the Senate and the Chamber of Deputies, but in practice his responsibility is chiefly, indeed almost entirely, to the latter. In Paris he is the head of a large departmental staff which is divided and subdivided into services, bureaus, sections, and so on. At

¹ The code of 1884 fixed it at three million francs, but a law of March 5, 1923, raised the figure to nine million, because of the depreciation in the value of the franc.

² For a discussion of ministerial responsibility in France see the author's *Governments of Europe* (New York, 1925), chap. xxii.

the head of each there is a permanent official subordinate to the minister, who handles the routine business. In addition, the minister has a little "cabinet" of his own, a group of confidential advisers selected by himself, who come into office with him and go out when he goes.

This ministry of the interior forms the apex in the pyramid of centralization. It is the chief agency through which the national government makes its supervision effective over all branches of local government in France. In the United States we have nothing corresponding to this department, nor does anything similar exist in the governments of the individual states. There is a secretary of the interior at Washington, but he has nothing to do with local government. He deals with patents, pensions, public lands, Indian affairs, and a miscellaneous list of other matters. The ministry of the interior in Paris is concerned with a single, united field of central jurisdiction; namely, the supervision of the public peace, order, health, safety, and good government at the hands of local authorities. The head of the ministry changes at frequent intervals, for French cabinets are shortlived; but this makes no difference in the continuity of the ministry's work, for it is the permanent officials who do nearly all of it.

The functions of this ministry, in relation to municipal government, are numerous, varied, and important. It promulgates the ordinances and regulations which are issued from time to time in relation to local affairs. These ordinances, although sometimes issued in the name of the President of the Republic, are in reality prepared by the officials of the ministry. When signed by the president and countersigned by the minister they are transmitted to the prefects and through them to the mayors of communes. Usually an explanatory circular, prepared by the ministry, accompanies the ordinance.

The other supervisory functions are exercised by the ministry through its local agents, the prefects and subprefects. France, it will be recalled, is divided into eighty-nine departments. These divisions are very uneven in size and population. Usually they are named after some river, or mountain range, or other geographical feature. Thus there is the Department of the Seine, of the Rhône, of the Alpes-Maritimes, and so on. At the head of each department is a prefect appointed by the President of the

Its organization.

Its functions.

3. The prefect.

Republic on the advice of the minister of the interior. As a rule these prefects are men who have had considerable experience in other administrative positions; it is rather unusual to appoint a prefect from private life, although this can be done if the minister so desires. From time to time the prefects are shifted around at the discretion of the minister whose eyes and ears they are supposed to be. It is the prefect's business to keep the minister informed, to do his bidding, and (not least) to play good politics in the minister's interest. If he fails in these things he may be demoted to a less attractive post or transferred to the unattached list.

His staff.

Each of the eighty-nine departments has a chief town in which there is located an imposing structure known as the prefecture. Here the prefect is enthroned, with the tricolor floating above his head. He is assisted by a staff of officials including a chief assistant (*chef du cabinet*), a secretary-general, three councillors, and various directors, engineers, accountants, inspectors, clerks, and other subordinates. The laws of France regulate the way in which all these subordinate officers shall be chosen and there are technical qualifications in almost every case. For the most part all the higher positions are filled by promotion from the lower ones.

His functions.

The prefect has many functions, but the most important are those of keeping a watchful eye on the communes and carrying out the instructions of the ministry. The minister speaks and the eighty-nine prefects transform his words into action. Every municipal budget passes through the prefect's office, is examined there, and then forwarded to Paris with comments or recommendations. All special taxes and all municipal loans of more than a certain amount must have the prefect's approval. His concurrence is also necessary for the appointment of certain municipal officers.¹ He sets the dates on which the municipal council holds its sessions and may suspend these sessions if he finds the councillors going beyond the scope of their authority. He issues prefectoral decrees on a great variety of matters, and anyone who has ever lived in France will recall the way in which the billboards are plastered with his white *affiches*. A hundred and fifty years ago France was commonly said to be "governed by her forty intendants". It is almost equally true

¹ See *below*, p. 293.

to say that the French Republic of today is governed by her eighty-nine prefects, who are the lineal successors of those earlier intendants. Ministers may come and go, but the prefects keep plodding on. It is they who run the administrative machine. France might abolish the presidency and become once more a monarchy with relatively little shock to the administrative mechanism—but let the prefectures stay closed for a week and the whole country would be in dire confusion.

Every prefect, in addition to his staff at the prefecture, has a subprefect at the head of each *arrondissement* into which his department is divided, with the exception of the *arrondissement* in which the capital (*chef lieu*) of the department is located. There the prefect serves as his own subprefect. In the other *arrondissements* the subprefect is appointed from Paris; he is installed in a less pretentious structure at the chief town of his district, and he has a somewhat smaller staff. But he has no independent powers, or almost none. He is commonly nicknamed, with characteristic cynicism, the prefect's *boîte-aux-lettres*, the mechanical contrivance in human form through which the superior officer transmits his instructions.

4. The subprefects.

In reality, however, the subprefect is a good deal more than a letter-box, for it is he who performs most of the routine work connected with the system of central control. The subprefecture is a busy place with a host of clerical functionaries at work. The subprefect, moreover, is a sort of local boss and takes a very active hand in politics. He desires promotion and he knows that the way to get it is to make himself invaluable to the political leaders. At any rate the gamut of supervision runs through the subprefecture to the prefect on its way to the ministry at Paris. All who have to do with it are politicians, active partisans, and that is one reason why central control has become unpopular in France.¹

In earlier days the prefects, and sometimes the subprefects as well, were allowed to exercise a good deal of discretion in dealing with the authorities of the communes. They were allowed and sometimes encouraged to act on their own initiative. But the long-distance telephone has changed all this. Nowadays when a prefect has any doubt as to his course of action, he calls up

Is there too much central control?

¹ M. P. Vaquier, *La question de la suppression des sous-préfectures* (Paris, 1922).

the ministry and gets definite instructions. Naturally the prefects like to do this because it absolves them of personal responsibility. Hence the tendency is to concentrate the entire supervisory power in Paris, although the routine work continues to be scattered among eighty-nine prefectures and three hundred subprefectures. The result, according to one critic of the system, is "apoplexy at the brain center and paralysis in the extremities". In other words, the ministry of the interior has so many small details thrust upon it that there is a great congestion in its offices, while the local authorities have been left with so little initiative as to superinduce a sort of municipal helplessness.

It should not be assumed, however, that the communes of France are altogether at the mercy of the Paris authorities and that they have no self-government. In some things they are free to do as they please. The higher control does not extend over the whole of municipal administration, although it does cover a good deal. The interference of subprefects, prefects, and ministers is frequent, forceful, and sometimes partisan; but it is usually intelligent and often protects the commune against acts of folly on the part of its own elective officers. It is not dictated by a mere zest for meddling, neither is it always inspired by political motives, as is sometimes asserted. Americans have found that the chief objection to the interference of state legislatures in municipal affairs is not its frequency but its unintelligence. State legislators from the rural districts insist upon applying to the cities their own yokel notions of how things ought to be done. They make rules that are not merely unwise but unworkable. The French system of administrative control is not open to that objection. The officials of the ministry are experts in municipal affairs. They know more about these matters than do the mayors and councillors. When they decline to approve some item in a municipal budget their action is not usually the outcome of mere officiousness or of political animus. In most cases it is dictated by a desire to protect the interests of the taxpayer. Central supervision of municipal expenditures has saved the French cities a great many millions. The absence of it has been responsible for much extravagance in American city government.

Let us see how the French system of central supervision actu-

A word
in defence
of it.

ally operates. The council of the municipality, as has been said, is empowered to deal with the "affairs of the commune". But what are *local* affairs in this sense? Where is the line drawn between affairs of the commune, affairs of the department, and affairs of the nation? The same question, in a not-widely-different form, has arisen in the various American states which have granted home rule to their cities. And it has been answered in much the same way, although with a somewhat more strict construction against the municipalities. Public education, for example, is not regarded in France as a municipal function. Neither is it in most American states. It is a matter for central control in the interest of standards and uniformity. The whole system of education in France is completely nationalized and is principally under the ministry of public instruction, although agricultural education comes under the ministry of agriculture and the technical schools are controlled for the most part by the ministry of commerce. The department, not the commune, is the unit of administration as regards primary education. The school officials and the teachers are appointed by the prefect under regulations established by law, but school buildings are erected and maintained by the communes. The mayor of the commune has the right to visit and inspect the primary school or schools; but otherwise he has little to do with education.

Public poor relief is another matter with which the municipal authorities have little to do. Each commune has a *bureau d'assistance*, but its members are appointed by the prefect and its function is to carry out the instructions which come from him.¹ In some of the larger communes there is a somewhat more elaborate organization known as a *bureau de bienfaisance*, the members of which are similarly appointed, and to which a slightly larger amount of discretion is given. The cost of maintaining the system is defrayed for the most part from the proceeds of a tax on amusements, but subsidies are granted by the department when the ordinary revenues are not sufficient.

Highways are to some extent controlled by the municipal authorities, but in the main they are not. A distinction is made

Matters which are subject to central control in France:

1. Public education.

2. Poor relief

3. Highways.

¹ In a commune which has a hospital commission this commission serves ex-officio as the poor relief bureau. A hospital commission consists of the mayor and six other members, four of whom are appointed by the prefect and two by the municipal council.

between the *grande voirie*, which comprises all important highways, and the *petite voirie*, which includes minor streets and roads.¹ The former are under the control of the minister of public works, who is represented in the department by the prefect. The municipal council has nothing to do with highways of this type. But minor roads, comprised within the category of the *petite voirie*, are under the control of the minister of the interior who is represented in the commune by the mayor. They are maintained and kept in repair under the latter's supervision, but be it noted that the mayor acts as the agent of the higher authorities and not as a local officer.²

4. Police.

The maintenance of law and order, again, is not a municipal function in France. In some of the larger cities the mayor has nothing to do with the policing of the municipality; in the smaller places he has a certain amount of jurisdiction, but he exercises it as the agent of the central authorities under the strict supervision of the prefect. It is in this field that the centralization of control reaches its highest point. The police commissioners (*commissaires de police*) are everywhere appointed by the prefects or by the President of the Republic on the recommendation of the minister of the interior. The municipality pays the bills but has no control over the way in which the money is expended.

5. Finance.

Finally, there is the matter of finance. The municipal budget (as will be more fully explained later) is prepared by the mayor and voted by the council of the commune.³ But in every case it must have the prefect's approval before it becomes effective, and where the revenues of the commune amount to more than nine million francs per annum the budget must obtain the approval of the national authorities as well. If the budget does not make adequate provision for the obligatory services, such as police, highways, poor relief, or education, the prefect can insert the amounts in the budget and if necessary can impose additional taxes to cover the cost. It should be mentioned, in defence of this rather pretorian power, that the principal income of the municipality is derived from the levying of a surcharge (*centimes additionnels*) on the regular national tax-rates, including the

¹ In Paris all the streets, whether main or subsidiary, are comprised within the *grande voirie*.

² See also *below*, p. 296.

³ *Below*, pp. 293-295.

taxes on real estate. Some degree of national control over the expenditures of the municipalities is therefore necessary in order that the nation may protect its own revenues.

But the foregoing are not all the avenues of central control over local government. Action taken by the municipal council, even in matters of a strictly local character, is subject to veto at the prefect's hands. A distinction is made, however, between two kinds of action, one of which gives the prefect greater discretion than the other. When the municipal council acts by simple resolution the prefect may interpose his veto on any ground. He may merely state that in his opinion the action contemplated by the resolution is unwise or inexpedient, and may nullify it accordingly. But when the council enacts a by-law (*règlement*) he cannot annul it save on grounds of illegality. In practice the distinction is not of great importance, for the reason that very few bylaws can be carried into operation without some expenditure of money or some other action which of itself requires the prefect's approval. All expenditures, all contracts, all takings of property for public use, must have this approval. Hence there is not much that the council can do, even by the enactment of a bylaw, without consulting "His Majesty at the Prefecture".

6. Other avenues of central control.

Yet the municipal authorities are not without protection against prefectorial arbitrariness. If at any time they think themselves being harshly or unfairly dealt with, they can appeal to the prefect's superior, the minister of the interior at Paris. What is more they can send their local deputy to see the minister, and they often do it. If the minister of the interior refuses to overrule the prefect (which he usually does because he has been consulted in advance of the prefect's action), the municipal authorities can then appeal to the Council of State, which is the highest administrative court in France and has the right to render final decision in all cases where the powers of any official are called in question.¹ The Council of State can annul any decree of prefect or minister, it can even invali-

The municipalities are protected to a certain extent against arbitrary control.

¹ The Council of State consists of two elements, (1) thirty-five judges or "councillors in active service" appointed by the President of the Republic. These councillors are jurists of high distinction. (2) There are also thirty-five councillors in special service, drawn chiefly from men who have served in the higher ranges of the governmental service. The validity of ordinances and decrees is determined by the first element only.

date a decree of the president if it be of an administrative character. It may annul a prefect's decree *pour excès du pouvoir*; that is, for having gone beyond the authority conferred by law. Thus, if a prefect should issue a decree shortening the period for which a mayor had been elected, this would be an action beyond the scope of his powers. The Council of State, on the petition of any citizen, would annul the decree. Or, even though the decree should be within the authority conferred by the law, the Council of State may invalidate it for a misuse of power (*détournement du pouvoir*). If it could be shown, for example, that a prefect had suspended the mayor of a commune for purely personal or political reasons and not for any real offence, the Council of State would quash the decree of suspension and reinstate the mayor.

The service rendered by the Council of State.

And so with any other action taken by the higher administrative authorities. The Council of State can be called upon to decide the legality and the reasonableness of all such actions. An appeal may be taken not only by the mayor or the municipal council but by any citizen who can show that his interest is affected. The procedure is simple and inexpensive, hence the appeals are numerous. Every year the Council of State invalidates various decrees of ministers, prefects, and other administrative officials. It has become a great bulwark of protection against the bureaucratic oppression of communities and individuals alike.

Central control in France contrasted with the same features :

(a) in the American states,

It is interesting to contrast the system of central control over municipal government in France with that which exists in the United States and in England. In the United States, as has been already pointed out, the state's control of the municipalities is *legislative*, not *administrative* in character. The government of the city or town is carried on in conformity to laws explicitly framed by the state legislature and not in accordance with the judgment of some state administrative officer. We have no minister of the interior in the French sense, no prefects or subprefects, and nothing analogous to them. There has been a slight growth of administrative supervision over local government in some of the American states during recent years—for example, in giving the state tax-commission some control over local assessments or tax rates—but the development has not as yet been carried very far. The legislatures have not parted with

their monopoly of control. They are still exercising it freely, even in the so-termed home rule states. And so long as the legislature keeps within the bounds of the state constitution the municipal authorities have no protection against this legislative interference, however arbitrary or ill-judged it may be. No court can invalidate its action for a "misuse of power" as in France.

In England, as has been seen, there is a large amount of central supervision over local government, but it differs in two ways from that which is exercised in France. First, it is exercised directly by the central departments and not through the agency of prefects, subprefects, or anything corresponding. The central departments in London deal with the local authorities through their own inspectors and other officials. In the second place, the English system does not lodge most of the controlling jurisdiction in any one place but scatters it around. In a way the English home office corresponds to the French ministry of the interior but its jurisdiction is nothing like so broad. The ministry of health, the ministry of transport, and half a dozen other national departments share with the home office the work of supervising local government in England. One might perhaps note a third difference in the fact that England has not yet gone entirely over to the system of administrative control. Parliament still takes a free hand in the matter by enacting private bills into law and by the system of provisional orders which it controls. On the other hand there is in England, as in the United States, very little judicial protection against ill-advised action on the part of the controlling authorities. The judgment of the central departments must prevail in England, so long as they keep within the scope of their legal powers.

The French system of central supervision over local government has been harshly criticised both at home and abroad, yet it undoubtedly possesses some merits. Otherwise it would not have survived so long and spread, as it has done, to other countries. It was devised for a people who craved, and who still seek above all things else, security, order, peace, and quiet. It affords a guarantee that law and order shall be maintained in every commune of France, that municipal governments shall be closely watched and compelled to be reasonably economical,

(b) in
England.

The fundamental merits of the French system :

1. It ensures the local maintenance of order and honesty.

that dishonesty on the part of local officers shall not pass undetected, and that decent standards of municipal administration shall be maintained. It sacrifices the principle of local home rule for the sake of an assurance against local misrule. Therein the French system has commended itself to the other countries of continental Europe and with some modification has been widely adopted by them. If you understand the spirit and general methods of central supervision in France, you do not need to be told much about the corresponding system in Italy, Spain, or Belgium. The essential features are the same, although somewhat disguised by differences in nomenclature. In virtually all the great countries of the world, with the exception of the United States and the British Empire, there is a system of centralized control over local government. The design of this centralization is not only to assure the preservation of order but to prevent wastefulness in local expenditures and to protect the minorities against local oppression.

2. It protects the minorities.

This last desideratum, the protection of minorities, ought to have a word of explanation. It is difficult for an American to appreciate the amount of intolerance—racial, religious, political, economic, social, and personal—that honeycombs the communities of various European countries. This intolerance is so bitter that a minority, if left unprotected at the hands of the majority in province, district, or city, would be subjected to every sort of discrimination and injustice. Under such circumstances there is not much use in prattling about the inalienable right of local self-government. In practice it often means nothing more than the right of the Gentile to oppress the Jew, or of the proletariat to put the screws on the rich, or of the townsmen to harry the peasantry—in a word, the divine right of the majority, in any section of the country, to assert its own selfish advantage. Under such conditions the restraining hand of the higher authorities is greatly needed.

But despite its merits the system is not popular.

Yet the system of centralized supervision is nowhere very popular. In France it is assailed steadily and bitterly from many quarters. There is no closed season for prefects and subprefects. From time to time a proposal to abolish the whole hierarchy of intermediate supervisory officials is made, and these proposals seem to be widely acclaimed in the larger towns; but when it comes to accepting the alternative, there are many prac-

tical difficulties in the way. If the municipalities are given home rule, asks one French jurist, "What is to prevent one city from becoming a festering spot, capable of poisoning the whole of France?" If they are given complete financial liberty, would some of them refrain from exhausting the local revenue resources? That is the way in which centralization is sometimes defended today. Yet one cannot help recalling, in this connection, the words of a very sagacious Frenchman, uttered nearly a century ago. "It profits me but little after all", said Alexis de Tocqueville, "that a vigilant authority protects the tranquillity of my pleasures, and constantly averts all danger from my path, without my care or my concern, if the same authority is the absolute mistress of my liberty and my life, and if it so monopolizes all the energy of existence that when it languishes everything languishes around it, that when it sleeps everything must sleep, that when it dies the state itself must perish."

CHAPTER XIII

MUNICIPAL SUFFRAGE AND ELECTIONS

The qualifications for voting.

There are no popularly elected officials in French cities except the councillors. Once in four years the voters elect the council; the council then chooses the mayor and the adjoints. The code provides that the councillors shall be elected by "direct universal suffrage"; but these words do not mean exactly what they say, for women are not permitted to vote at French municipal elections. Neither do they vote at parliamentary elections.¹ The municipal voters' list is compiled on a *manhood* suffrage basis. Every male French citizen who has attained the age of twenty-one years and who has resided in the commune for six months is entitled to be enrolled. In addition anyone who is not a resident, but is otherwise qualified, may be enrolled if he has paid for five successive years any one or more of the four direct principal taxes levied by the municipality.² Thus a man who has his place of business in the city, and pays taxes on his business premises, is not debarred from voting there because he happens to reside in some suburban municipality outside. He must not vote in more than a single commune, but he has the option of being enrolled either where he pays his taxes or where he resides.³

The option as to location of enrolment.

Value of this arrangement.

This arrangement has proved agreeable to a considerable class of business men who are frequently much more interested in the administrative affairs of the large cities where their business is pursued than in the administration of the small suburban communities in which they live. In the United States a voter must be enrolled at his "legal residence", wherever this happens to be, and it very frequently happens to be in a different municipality from that in which his chief financial interests lie. Many large American cities, like New York and Boston, are

¹ See *below*, pp. 240-241.

² *La loi municipale*, par. 14, amended by the Law of March 31, 1914.

³ It will be noted that this differs from the English arrangement. See *above*, p. 81.

thus deprived of the votes of thousands of influential business and professional men who, because they maintain their homes in the suburban cities or towns, may neither cast their ballots nor hold office in the larger community. Yet these men and women are heavy taxpayers on downtown business property and hence are directly interested in the efficiency and economy of metropolitan administration.

This would seem to be one of the things which the cities of the United States might borrow from the French municipal system. It will be objected, of course, that the French plan would be open to serious abuse in America—that persons having the option of being enrolled as voters in either of two municipalities would get themselves enrolled in both and vote illegally. But the dangers in this connection are not great and could be guarded against like any other type of electoral “repeating”. The men and women who would possess the option are not of the kind likely to indulge in fraudulent practices. It is the floater who makes most of the trouble on the voters’ lists of American cities,—the fellow who is not qualified to vote anywhere. The man who has both a place of business and a home would not be likely to take chances in violating the law.

Would it
be advanta-
geous in
the United
States?

The French municipal franchise represents about as close an approximation to manhood suffrage as is to be found in any country. Nowhere in France is there any educational qualification, or any requirement that a man must own or occupy any property, or pay any taxes, or have any income in order to possess voting rights. There are, however, some disqualifications similar to those which commonly exist in other countries. Thus, the right to vote is lost, either for a term of years or perpetually, whenever a voter has been convicted of certain enumerated offences. The list includes not only the more serious crimes but many misdemeanors connected with the violation of the election laws or of the laws regulating the formation of secret political societies.¹ Conviction on the charge of illegal voting, for example, involves perpetual disfranchisement. When any French court of justice imposes a penalty which carries with it the deprivation of voting rights, this action is duly reported by the court officials to the proper administrative authorities; hence a

Disquali-
fications.

¹ Most of the existing disqualifications were provided for in the organic decree promulgated by Louis Napoleon after his *coup d'état* of 1851.

list of disfranchised persons in the commune is always at hand when the voters' lists are being prepared.

It will be noted that women are not entitled to vote in French elections. This contrasts strongly with the existing situation in England, Germany, and the United States. There is a woman suffrage movement in France and has been for some years, but it has not yet been crowned with success. A few years ago the Chamber of Deputies, by a large majority, passed a bill extending the suffrage to women in national elections; but the Senate, also by a large majority, rejected the proposal. Thereupon the agitation seems to have subsided, especially since the *Bloc des Gauches* or Coalition of the Left presently came into power. This bloc, dominated by Socialists, is not enthusiastic about the extension of the suffrage to women because its own attitude is strongly anti-clerical and it fears that most of the women, if admitted to the electorate, would be susceptible to the influence of the church. Woman suffrage has always been a strong plank in the Socialist platform, and in various European countries when the Socialists rode into power at the close of the war they proceeded to redeem their pledges. In Germany, Austria, Poland, Czechoslovakia, and other countries, the new Socialist republics were based upon universal suffrage. But it soon appeared that this doubling of the electorate was a stroke of dubious wisdom from the Socialist point of view, for the women voters aligned themselves with the anti-Socialist parties to a greater extent than had been anticipated. Especially was this the case where nationalist or religious issues were involved. The European woman voter showed herself unexpectedly responsive when appeals were made to her patriotic or religious emotions.

So the French Socialists have gone lukewarm on the suffrage issue. They see no advantage in it for their own cause. And when Socialist principles come into collision with the political realities, they usually give way—as do the principles of any other political faction. Of what use are principles if their application only serves to drive out of power the party that espouses them? The issue of church and state is a live one in France and has been for many years. The conservatives, in general, are friendly to the church while the radicals are anti-clerical, not only in France but in most of the other countries of

The absence of woman suffrage.

The Socialist attitude on this question.

continental Europe. Socialism and the church are rarely on good terms. There is more than one reason for this lack of cordiality, but it would take several pages to explain them and this is hardly the place for such a discussion. It is enough to point out that there is no woman suffrage in France and that the Socialists, under present conditions, do not appear desirous of having it.

During recent years there has been much discussion of a proposal for "family voting" in France. In brief the father of a family, under this proposal, would be given one or more extra votes, depending upon the number of his children. Concerning the details of such a plan there is much difference of opinion, and a half dozen schemes have been worked out. Difficulties arise with respect to the electoral status of widows who are heads of families, and as to the position of unmarried daughters who are over age. What provision should be made for them in a system of family voting? The general argument in favor of *le vote familial* is that the family, not the individual, is the true unit in the social organization and that representative bodies chosen by a system of family voting will represent in terms of this true unit. On the other hand, the proposal is open to various objections of a practical sort.¹

The proposed "family vote".

In every French commune there is kept at the mairie, or city hall, a voters' list (*liste électorale*) which must be revised annually even though in some years no election is held. The duty of compiling and revising this roll is laid upon the mayor of the commune; but the methods to be pursued are carefully detailed by law, for the same lists are used in both national and local elections.² Ordinarily a single list serves for the whole commune, but when the municipality has been divided into wards or election districts there is a separate list for each district. The immediate task of compiling the list is intrusted to a board of three men, including the mayor, ex officio, a member appointed by the prefect of the department in which the municipality is located, and a third member selected by the municipal council. When the municipality is divided into election

The *liste électorale*.

¹ Those who desire to look further into this proposal may be referred to the article on "Family Voting in France" by Robert K. Gooch, in the *American Political Science Review*, vol. xx, pp. 299-312 (May, 1926) and to the abundant references which are given in the footnotes of this article.

² Prior to 1884 different lists were used.

districts, there is a board constituted in the same way for each district; but in this case the mayor is represented on each board by an adjoint designated for the purpose.

How it is
compiled.

These boards perform their work of compiling the lists every January, the list of the previous year being used as a basis in each case. The procedure is very simple.¹ The names of all those who have died, left the commune, or become disqualified since the last revision are struck off; and the names of all those who, before the end of March, will have attained the age of twenty-one years or will have completed their six months' residence in the municipality, are put on.² All these data can be had from the records of the *état civil* kept at the mairie. The work of preparing the list is not performed publicly; even representatives of political parties are not permitted to be present.

How
revised.

When the preliminary work of compiling the list has been completed, two written copies of the roll are made: one for the prefect, the other to be retained at the mairie for public inspection. Any voter may enter an objection to names included or omitted and may file his protest either orally or in writing. When all such objections have been noted, and when the list has been open to public inspection for three weeks, it is recommended to the board for revision. For this work two additional members are appointed by the municipal council, so that the revising board consists of five persons. During the first week of February the various objections are considered by the board in executive session, and such changes in the original list as are deemed proper are then made. From the decisions of the revising board an appeal may be taken, without cost, to the local judge (*juge de paix*); and from the rulings of this official a further appeal, upon points of law only, may be carried to the Court of Cassation, which is the highest civil court of the republic.³ On the last day in March the list is declared closed. It is then placed in the archives of the commune, but copies are posted for inspection at the door of the mairie and one copy is

¹ The details may be found in P. Drillon, *La révision des listes électorales* (Paris, 1914), and in Charles Rabany's *Guide générale des élections* (third edition, Paris, 1925).

² French citizens residing abroad and duly registered at the nearest French consulate have the right to be enrolled on the voters' list of the commune in which they rendered their military service. *Law of July 29, 1913.*

³ Prior to 1914 the appeals were heard by the civil chamber of this court. They are now heard by its *chambre des requêtes*. *Law of February 6, 1914.*

transmitted to the prefect to be kept on file at his office. Any voter is entitled to make for himself a written copy. After the final posting no changes may be made except as the result of belated judicial decisions. As a matter of fact, appeals from the rulings of the revising board are comparatively few.

An interesting feature of the system of preparing the voters' list is the very small cost which the compilation imposes upon the municipality. The members of the various boards perform the work of compiling and revising without any remuneration, and frequently (even in the large cities) the lists are not printed but are written by hand. The whole expense is so small that even in the largest communes it is not put into the municipal budget as a separate item but is lumped in with the incidental or miscellaneous clerical expenditures. On the other hand, one may venture to express some doubt whether the safeguards in the way of judicial appeal afford an adequate protection against improper inclusions or omissions. It is true that the revising boards in French cities are fair and honest, as a rule, and that although their sessions are secret their decisions are public; but here and there some instances of "padding" have been brought to light. There is bound to be an element of danger so long as the work of compiling and revising the lists is performed in executive session by men who are directly interested in having certain names added or omitted. At the same time, the French arrangement seems to afford as much security against fraudulent practices as does the American plan of enrolling, without any investigation, every adult who comes to the registration bureau and claims the right to be listed as a voter. In France the records of the *état civil*, or perpetual civil census, provide a safeguard which we do not have in the United States.

Some
comments
on the
methods
of listing
voters.

The work of compiling the voters' lists is finished in March and the municipal elections are held in May—but only in every fourth year. The law makes no provision for the nomination of candidates by any system of caucuses, conventions, primaries, or petitions. So far as the election authorities are concerned, they recognize no regular candidates for municipal office; they do not set before the voter any list of names on a ballot; they restrict his freedom of choice in no way whatever. The voter comes to the polls, nominates his candidates, and elects them,—

Nominat-
ing the
candidates.

all at the same time. But this does not mean that no candidates for the municipal council appear in the field prior to election day. Candidates there are in plenty, as in the cities of every other country; but they are self-nominated, or nominated by some informal procedure which the laws do not recognize at all. There is no filing of petitions or nomination papers as in England and the United States. Everything is unofficial and informal, but when the voter goes to the polls he does not mark his ballot at random. He knows who other people are voting for.

What happens is this: In the months preceding a municipal election the various political organizations and clubs hold conferences, talk over the situation and the prospects, discuss the merits of various possible nominees, and finally ask certain individuals to stand as candidates. Hence, by the time the election comes, the contest narrows itself down to rival candidates or slates of candidates about as definitely as in American municipalities. Each candidate looks to a party or bloc of parties to secure his election. Without organized support there is little chance that a man can get himself elected to the council in any large commune.

The theory that lies at the basis of this arrangement.

The whole spirit of French legislation relating to election campaigns is in the direction of freedom of action on the part of voters and candidates alike. With no official nominations it follows that no ballots are provided by the election officials. Each voter is expected to provide his own ballot. *Liberté* is the keynote of it all—a reaction from the “official” candidatures and jockeyed ballotings of the Second Empire. In the attempt to make the elections absolutely free and untrammelled the laws have gone a long way. For example, although every ordinary poster and placard affixed to a public billboard must bear a government stamp for which a fee is exacted, a special exemption from this fee is made in the case of campaign posters and announcements, which the candidates and their friends supply in profusion.¹ In every commune, during the weeks preceding the election, special billboards are erected by the municipal authorities and these are reserved for the posting of campaign notices. An equal amount of surface-space on these boards is al-

¹ *Loi du 29 juillet 1881*, in *Bulletin des lois*, 1881, ii, pp. 125-238. See also Alfred Dodanthun's *Des affiches électorales* (Paris, 1903).

located to each candidate or list of candidates. The posting of campaign appeals, except on these boards, is forbidden.

In the matter of political gatherings, likewise, the theory of the law is that the utmost freedom should be permitted. It was not always so. Until 1907 the laws forbade the holding of any public meeting, political or otherwise, unless a notice was lodged with the police authorities a specified number of hours in advance. In the case of political meetings it was required that two hours' notice be given, and that two reputable citizens should become responsible for the proper conduct of the meeting.¹ Since 1907 no notice has been required by law, but by custom the police continue to be notified. This is because the promoters of the meeting are relieved from a certain amount of legal responsibility when notification is given. Giving notice also ensures that a police officer will be within call if his services are needed to prevent disorder.

Special
campaign
privileges.

The holding of a municipal election is announced by decree of the prefect, and this decree must be published in the municipality at least fifteen days prior to the date set for the polling. The law requires that the regular election shall take place on the first Sunday in May.² National and municipal elections are never held upon the same date, and the desirability of keeping the two separate is never questioned by Frenchmen. In fixing dates for by-elections (that is, elections to fill vacancies in the council), the prefect has full discretion, provided always that he must choose a Sunday. This practice of holding elections, both national and local, upon Sundays rather than upon week days is characteristic not only of France but of the other countries of continental Europe. In Germany, before the war, a week day was used, but the new constitution of the German Reich (1919) provides that all elections in Germany must henceforth be held on a Sunday or a legal holiday.

The date
of the
municipal
election.

Holding elections on a day when nobody is at work is regarded as an advantageous arrangement in that it serves to prevent the operations of polling from interfering with the regular course of daily business. In addition it affords opportunity for every voter not only to cast his ballot but to hang around the polls and discuss the issues, argue with others about the candidates and their claims, and thus to become well informed.

Advantages of
Sunday
elections.

¹ *Loi du 28 mars 1907.*

² *La loi municipale, par. 41.*

before the day is over. Frenchmen look upon Sunday voting as one way of emphasizing the equality of all citizens at the polls; because the system affords to every voter, of whatever social class, an equal opportunity to exercise his right of suffrage without hurry, without personal inconvenience, and without loss of pay. It has been suggested that the large ratio of polled to registered votes which is a characteristic of French elections may be partly due to the practice of choosing Sundays for polling days.

Indeed, the advantages of holding elections on Sundays, rather than on week days, are so manifest as to raise the question whether Americans might not profitably follow the Continental practice. The most convenient places for polling are the schools, and the American practice of using them for Tuesday elections is responsible for a needless interruption of school work. If one reckons the entire indirect cost of an American election, allowing for the time taken from their work by all the voters (even though it might average less than an hour apiece), the total is far beyond what most people realize. An election-day in any American city means that industrial production is reduced by at least ten per cent. Holding the election on a Sunday would eliminate this needless economic loss. It would allow the school-rooms to be used without any interruption of their regular work. It would permit competent men to be secured as polling officers whereas most of them now dislike to take the day from their regular employments. And above all it would give every voter exactly the same opportunity to cast his ballot, establishing an equality which now exists in theory but not always in fact.

There would be objections to such a proposal, of course. To some puritanical souls the holding of an election on Sunday would seem to be Sabbath desecration, the profanation of a day which ought to be reserved for religious exercises. But would it be a greater profanation than the professional ball games, the motion picture shows, or the bathing-beach spectacles which now attract citizens by the thousand every Sunday afternoon in many American cities when the weather is good. There seems to be no objection to the holding of political rallies on Sunday, and political deliverances are sometimes thundered from the church pulpits. If voting is a "sacred duty" on the part of every citizen (as we are so often told by the professional rousers

Should
Sunday
elections
be held
in the
United
States?

of the civic conscience), why object to its performance on a day that is consecrated to sacred things? The better the day, the better the deed.

As an alternative it has been suggested that election day be regularly proclaimed a public holiday, retaining a week day as heretofore. There are various practical objections to this proposal. For one thing we have too many public holidays already. In some parts of the country the national, state, and local elections are all held on different days. Add to this the primaries, likewise the elections on bond issues, and you would make quite an addition to the list of days on which production shuts down. It would constitute a far more serious interference with business than would readily be tolerated. There is also the obvious probability that many voters would use the holiday as an occasion for getting out of town, and that the polled vote would actually be smaller than under our present arrangement. If we are not prepared to utilize Sunday, as France and the other countries of Continental Europe do, it would seem best to continue in the United States the tradition of Tuesday elections.

Or should election day be made a legal holiday?

How are polling places selected in French cities? The places to be used as polling rooms are designated by the prefect. In the smaller communes, where only one poll is needed, the schoolhouse is always used. In the larger cities the prefect designates not only schoolhouses but other public buildings or even private residences if need be. When there is but one polling place in the municipality, the mayor is in charge of it; when there are several, the additional polls are presided over by the adjoints, and if these are not sufficiently numerous, by the councillors in order of seniority. If there should happen to be more polls than there are adjoints and councillors, the mayor designates certain voters to take charge of them.¹ The polls open at eight in the morning and close at six in the afternoon, but the prefect may order them opened at an earlier hour.

The polling places in French elections.

Whenever Frenchmen gather together for any public or semi-public proceeding, their first step is not to select a chairman, as is the custom among Americans, but to constitute a *bureau*,

The bureau of the poll.

¹ An exhaustive treatment of the law and the administrative decisions relating to municipal elections is embodied in C. Rabany's *Guide général des élections et spécialement des élections municipales* (3d edition, Paris, 1925). See also Maurice Jourdain's *Guide pratique des élections municipales* (Paris, 1925).

or committee of direction, to which is intrusted the conduct of the business. The law requires that when a polling place is opened "the two oldest and the two youngest voters present" shall be called upon by the officer in charge to act with him as members of the polling bureau (*assesseurs*), provided they are able to read and write. These five constitute the *bureau électoral* and by majority vote decide all questions that may come up during the day. Three out of the five members must always be present while the polling is going on. Sometimes there is keen competition for the honor of serving on the poll bureau; but more often the presiding officer has some difficulty in persuading four voters, whether young or old, to give him their assistance for a whole day. It is customary, therefore, to arrange the matter beforehand, lest when the poll opens there may not be present a sufficient number to constitute the bureau. A poll clerk or secretary, chosen by the bureau, completes the personnel of the polling place. This clerk is not a member of the poll bureau, however, nor has he any voice in the decision of questions that may arise during the day. It is his duty merely to keep the records of the poll, including minutes of all matters decided by vote of the bureau. These decisions are recorded in proper form so that they may be available in case any appeal from a decision of the bureau is later carried to the administrative courts. In order that the decorum and dignity of the polling place may be conserved, members of the bureau are forbidden to discuss political questions in the room. It is, however, somewhat at odds with the method of conducting elections in the United States to put the polls in charge of men who frequently are themselves candidates for reelection and who have, therefore, a direct interest in the various matters that come before them. No official connected with the poll, it may be noted, receives any pay for his services; another point in which the French methods are sharply at variance with the American.

The *carte
électorale*.

The equipment of the French polling booth is very simple. On a large table in the center of the room is placed a wooden ballot box with a slit in its lid.¹ Near by is a basket or smaller box in which are deposited the *cartes électorales* or official no-

¹The lid is locked and the lock must have two keys. One is kept through the polling by the presiding officer of the poll, the other by his oldest colleague on the polling bureau.

tifications to the voters. A written copy of the voters' list and a record book complete the essentials. The members of the bureau sit behind the table, the mayor in the center and the secretary at one end. When the poll is open each voter, as he enters the room, presents his election card, which is a printed notice that has been sent to him from the mairie some days prior to the polling. Sometimes they are sent to voters through the mails; sometimes each voter is supposed to call at the city-hall and get his card before the election day arrives. On the card are printed the date and place of the election, together with a statement of the hours during which the poll is open; the whole authenticated by the signature of the mayor and the seal of the municipality. In the larger cities it is now the general practice to require the voter to call at the mairie for his card and sometimes, though not usually, his signature is secured as a receipt for it. This signature can then be used as a means of checking personation at the polls in case any attempt at imposture is made.

It is not absolutely necessary that the voter should present his *carte électorale* at the poll, but in the event of his failing to do so he must produce two witnesses to identify him. This requirement has served as an effective safeguard against personating, even in the largest cities where there is a considerable floating element. When the voter presents his card the secretary verifies the name and address by reference to the voters' list. The presiding officer of the poll then cuts one corner of the card and places the clipped piece in the open basket or box which sits on the table alongside the ballot box. If the voter has brought no card, one is made for him and then clipped in the same way. These detached corners of the electoral cards are kept to check the total number of ballots found in the box. Sometimes, instead of being tossed into the basket, they are strung like beads on a string so that they can be more easily counted.

The safeguard against personation.

No official ballot is given to the voter. At French municipal elections no official ballots are provided; each voter is supposed to furnish his own. The law requires only that the ballot which he presents shall be a slip of white paper, without external mark,¹

The ballot.

¹ "Le papier du bulletin doit être blanc et sans signe extérieur." (*La loi municipale*, par. 25.)

upon which there shall have been printed or written plainly the names of those persons for whom he wishes to have his vote recorded. The ballot must be prepared outside the polling room. In national elections an official printed ballot is now used, but in municipal elections the old plan is still followed, as it was in American cities until the so-called Australian ballot came into vogue.

How the
ballots are
prepared

Although the municipal code takes it for granted that each voter will prepare his own ballot, he rarely does anything of the sort. The politicians relieve him from the trouble. On the days preceding the election, ballots are printed by the candidates or their supporters and distributed from house to house or mailed to all voters whose names are on the list. Outside the polling place on election day, moreover, the voter will find a line of workers for the various candidates with bunches of ballots in their hands. There they stand, like a row of taxi men at a railroad terminal, their hats decorated with placards indicating their respective partisan affiliations, vociferously urging the voter to accept one of their ballots. If the voter is willing to have his intentions made known, he accepts a ballot from one of these workers and rejects those offered by the others. But if he prefers to keep his intentions to himself he takes a ballot from every one of them, and puts them all in his pocket where they stay.

Objections
to this
form of
ballot

Prior to 1914 the voter, when he came into the polling room, did not go to a voting compartment or booth. There was no need for it. He merely took from his pocket the ballot that he desired to cast and handed it (usually folded up) to the presiding officer of the poll, who thereupon dropped it into the ballot box. But this method of balloting emasculated the secrecy of voting, because even when folded it was usually possible to discern what the ballot contained. This was due to the fact that the candidates in having their respective ballots prepared took care to give them a distinctive size or shape, or even to use slightly tinted paper which was white enough to meet the legal requirement but nevertheless could be easily distinguished, on the outside, from other ballots. Any voter, by writing his ballot at home, could keep his vote secret; but very few voters did it. Most of them took one of the ready-made ballots which had come through the mails or had been handed to the voters

outside. In such cases everybody in the polling room could tell how anyone was voting, no matter how he folded the paper.

About a dozen years ago, however, the law was changed to provide that the voter must enclose his ballot in an envelope before handing it to the presiding officer of the poll.¹ The envelopes are furnished by the polling officials; they are white, opaque, and of a uniform size.² When the voter enters the polling room he is now given one of these envelopes and with it he retires to a screened compartment (*isoloir*). There he takes his ballot from his pocket, puts it in the envelope, seals it up, and on emerging hands this envelope to the presiding officer of the poll, who puts it in the box. In this way the ballot has been made secret, no matter what its size or shape or tint.

The
envelope
system.

Why do they not have official ballots in French cities, as in English and American? The answer is easy: it is because there are no official nominations. How can official ballots be printed unless the authorities know who the candidates are? In order to adopt the Australian ballot it would first be necessary to establish a system of nomination—by regular caucus, conventions, petitions, or by requiring the candidates to file official announcement of their candidacies. But public opinion in France has not warmed up to this way of doing things, because of a deep-seated feeling that any system of official nomination is bound to narrow the voter's freedom of choice. It would mean that the voter must restrict his choice to what is set before him. Moreover, the French people have not yet forgotten the "official" candidacies and ballots of two generations ago—during the Second Empire. In those days the official ballot contained only the names of such candidates as were favored by the imperial authorities. There still lurks in the mind of the French bourgeois a notion that official nominations and ballots could somehow be used as the means of crushing his independence, and above all other things he values his right to vote as he pleases, without pressure from anybody. Nevertheless, official ballots

Why no
official
ballots
are used.

¹ Law of July 29, 1913, modified by the Law of March 3, 1914.

² When the World War came to an end the American Y. M. C. A. had a large supply of unused envelopes on hand. These were secured by the French authorities and in some of the cities have been used as ballot-envelopes during the post-war years. This is a rather striking illustration of the thrift which marks the holding of elections in the French municipalities. It is difficult to imagine an American election board seriously trying to save a few dollars in any such way.

have been used in national elections for some years and it is likely that their use will sooner or later be extended to municipal elections as well.¹

Election
methods
in French
cities.

The French conduct their municipal elections in a dignified, orderly way—without the whirlwind finish that so often marks the close of a campaign in an American city. Save in the immediate vicinity of the polling place one would not know that an election was being held. There you will see groups of voters crowding together and arguing excitedly, with a great shrugging of shoulders. Most of the voters go to the polls early, cast their ballots, and hurry away—for a fine Sunday morning in May offers some allurements that are quite superior to a street-corner discussion of municipal politics. The polling room is usually a very crowded place, for the reason that voters do not have to leave the room after they have cast their ballots. The laws recognize the voter's right to remain in the room, although they also provide that in certain contingencies the presiding officer of the poll may call a gendarme and have the place cleared. This he must not do, however, unless there is urgent reason for it, and on occasions the courts have declared an election invalid because of a presiding officer's too great zeal for fresh air in the polling room.

To the Frenchman's mind the poll is a public meeting where the voter settles the issues in person. He sees no reason why the process of settling these issues should be conducted in executive session. The right to cast his own ballot, to watch others cast theirs, and to help count the ballots after the poll is closed—he looks upon all these rights as incidents of democracy. Occasionally there is some disorder in the neighborhood of a polling place and the police have to interfere, but such occurrences are not frequent. The municipal code rather significantly provides that "no voter shall bring any weapon into the polling room" and also that soldiers shall not be stationed at the polls. These two prohibitions hark back to the old days of Bourbons, Orlean-

¹ The official ballot came into use in national elections (1919) as part of the new scheme of proportional representation. Candidates for the Chamber of Deputies are nominated by filing their names at a given date prior to the election. Their names are then printed on ballots by the public authorities at the expense of the candidates. The ballots are distributed to the voters through the mails under an official frank and are also provided to voters at the polling place. But candidates for the chamber are still free to print their own ballots if they so desire.

ists, and Bonapartes, when elections were not so tame as they have now become.

When the hour for closing the poll has arrived, the ballot box is opened by the presiding officer and the total number of ballots ascertained.¹ This total is compared with the clipped corners of the electoral cards and if the figures do not correspond the fact is noted on the records. As a further means of verification the check list of voters is also used. If more than three hundred ballots have been cast, the officer in charge of the poll selects from among the voters who may happen to be in the room as many assistants as he may deem necessary to expedite the counting of the ballots, any voter who can read and write being eligible. These men take their places at the table, or at several tables, and the ballots are distributed among them. The counting proceeds publicly; all the voters who can crowd into the room do so and are allowed to stand there while the count goes on. They applaud, make comments, murmur their disapproval when the poll bureau makes a decision which they do not like, and exercise all the privileges of bystanders at an exciting contest. Hence the place often becomes such a bedlam of noise and gesture as to excite marvel that any accurate counting can be done. Whether it is or not, no one can say, because recounts are impossible for a reason that will be explained presently.

Counting
the votes.

As soon as the results are totalled they are announced by the officer in charge. Then all spoiled or disputed ballots, all records and other papers, are annexed to a report of the day's proceedings (*procès-verbal*) made by the secretary; this report is then signed by all the members of the bureau, and the whole batch of papers is sent to the subprefect. As for the ballots which have been properly marked and counted, they are then put in a pile and "burned in the presence of the voters."² This is a curious provision and obviously renders any complete recount of votes impossible. All that can be done is to go over the disputed ballots which have been preserved. As a matter of fact, these disputed ballots are not numerous, for the provisions of the municipal code (and amending laws) are very

Burning
the ballots.

¹ During the Second Empire it was not opened at once but was taken home by the presiding officer of the poll and opened the next morning. Various things often happened during the night.

² "Les bulletins autres que ceux qui doivent être annexés au *procès-verbal* sont brûlés en présence des électeurs." *La loi municipale*, Article 29.

lenient in authorizing the counting of ballots which would be thrown out at American elections. Ballots containing more names than there are candidates to be voted for are not rejected in France; they are counted for the candidates whose names come first. If an envelope contains several different ballots, they will all be rejected; but if similar, they are counted as one ballot. If a voter signs his ballot, he voids it; but he may write anything else on it and have it pass.

The
ballotage
or supple-
mentary
election.

In order to be elected, a candidate must secure a clear majority of the votes cast, and in addition he must poll at least one fourth of the total registered vote. If he satisfies the first condition, he rarely fails to fulfil the second; and this for the reason that although Frenchmen are often accused of political indifference, the percentage of the total vote which is regularly polled at municipal elections compares most favorably with that in other countries. It is an interesting fact that in France the national elections often draw out a smaller number of voters than the municipal elections. A successful candidate, then, must have received one half the polled vote and one fourth the registered vote. If no candidate meets both these conditions, none is elected, and a supplementary election takes place on the Sunday following. If the conditions are satisfied by a smaller number of candidates than the quota to be elected, those who have fulfilled the requirements are declared elected, and the second election is held for the remaining vacancies. At this ballotage or second election a *plurality* of votes is sufficient. Second elections are very common, especially in the larger cities where there are many groups of candidates at the first polling. During the week intervening between the first and second election there are always some withdrawals and combinations among the weaker groups, and as a rule the second election arouses less public interest than the first one.

No pro-
portional
representa-
tion in
French
cities.

It will be observed that although a system of proportional representation has been established for the election of members to the French Chamber of Deputies, this has not yet been extended to the municipalities. The plan used in the national elections is not a true proportional system but a half-caste arrangement, a compromise which has not proved very satisfactory.¹ It

¹For an explanation of the system, see the author's *Governments of Europe* (New York, 1925), pp. 455-458.

does not seem likely that it will be extended to the election of municipal councillors. On the other hand, if a genuine plan of proportional representation should ever gain acceptance in national elections, it is likely that the communes would eventually be brought under its operations.

In France, as in other countries, there are stringent laws to prevent corrupt practices at elections. Such offences as personation, repeating, intimidation, stuffing the ballot box, bribery, disorders at or near the polling place, and so on, are dealt with by the regular criminal courts. Complaints regarding technical irregularities in election procedure are not heard by these tribunals but by the administrative courts, which alone have power to unseat a councillor by declaring his election void. Such complaints, if not already made at the poll and duly inscribed on the poll records, may be filed with the prefect or subprefect by any qualified voter within five days after the election. On receipt of such complaint the prefect notifies the councillor whose election has been protested and calls on him to submit his defence. An investigation (*enquête*) is thereupon held by the administrative court of the prefecture, which either confirms or annuls the election. As a rule, elections are not voided except for important and inexcusable irregularities; they are never annulled for slight technical violations of the law. From the rulings of the lower administrative court an appeal may be taken by any of the parties concerned to the Council of State, which is the supreme administrative court of the French Republic.

There is no limit upon the amount of money that a candidate may spend in a municipal campaign, provided he does not spend it corruptly. For printing ballots, circulars, and posters; for legitimate election expenses of any sort, he may pay out as much as he pleases, provided he has it to spend. This does not mean, however, that more money is spent on elections in France than in other countries. On the contrary, French candidates spend a good deal less than American—taking the cities of the two countries as a whole. There are two reasons for this: first, because campaign funds are very difficult to raise in French cities, and second, because the voters as a whole do not like the opulent type of campaign which seems to please and impress large elements in the American electorate.

The securities against corrupt practices at elections.

No limits on campaign expenditures.

CHAPTER XIV

PARTY ACTIVITIES IN FRENCH CITIES

A word of
caution.

It is the habit of all men, and particularly of Americans, to regard foreign institutions in the light of their own. Every American knows what a political party is, or thinks he does. He has seen parties in action during election campaigns, with their national headquarters, local committees, precinct captains, and all the rest. He has been deluged with party literature, has attended their rallies, and is acquainted with the local boss. He has read in the newspapers all about the machine and its sinister activities. Accordingly, when you refer to political parties or the party system in any European country he merely links these terms with a picture that is already well fixed in his mind. Party organization and party activities, he concludes without reflection, must be the same everywhere, just as lions or elephants are.

Start with
a clean
slate.

Now it would seem hardly necessary to mention that the student who desires a real understanding of what a French political party is, and what it does, should divest his mind of preconceptions if he can. He should begin by trying to forget all he has learned about political parties in the United States. Otherwise he will be led astray. He will go looking for resemblances that do not exist. We are in the habit of translating the French term *parti politique* into the English term *political party* because that is the most convenient and the most natural translation to make; but these two terms do not mean the same thing. French political parties are not political parties in the American sense. They have very little in common with American political parties. They are not similarly organized, do not have the same discipline, and are altogether unlike in the methods which they use.

By a political party in the United States we mean a large body of voters who profess adherence to a common, nation-wide political platform. But that is not the Frenchman's definition.

The term, indeed, is one that he would find great difficulty in defining, for it may mean any one of several different things. It may signify a large, well-organized group with a recognized platform; it may mean a smaller group without a platform at all but whose members simply display an inclination to hold together for even a brief period and from any motive whatsoever. Every new political issue commonly gives rise to a new group, which may dissolve when the issue disappears or may continue because it has acquired momentum. Hence it is that the multifarious "parties" are continually shifting like the bits of glass in a kaleidoscope.

French and American conceptions of a political party.

All this is quite contrary to the tradition in English-speaking countries. In the United States, in Great Britain, and in the British self-governing dominions the people gravitate into two, or at most three, political parties and customarily stay there. There are shifts of party allegiance from time to time, but the masses of men and women in the party ranks stay regular. Yet we must not make the mistake of assuming that this tradition of large groups and stability, as it exists in English-speaking countries, is the tradition elsewhere. It most certainly is not. Throughout continental Europe there is party decentralization and instability of partisan allegiance. France has nine or ten political parties (according to the way you count them), and sometimes more. Germany has eight, Austria has seven, Italy has six, and Portugal holds the record with twenty-five.

A world-wide contrast.

This breaking-up of party groups is not the result of any one political system, for it is found in monarchies and republics alike; in national, state, and local politics; in big and little countries. Nor can it be easily accounted for. It seems to be the result of widely varying forces in different countries.

In France the disintegration of parties is not primarily due to differences in race or religion, for there are none—or virtually none. France is solidly French and almost solidly Catholic. Nor is it mainly due to sectionalism, for sentiment in France is more thoroughly nationalized than in any other continental country. The splitting of French parties seems to be largely the outcome of history. A great volcano erupted in France during the closing years of the eighteenth century. It opened great "faults", as the geologists would say, running crisscross over the country. From time to time these breaks have been adjust-

The basic cause of party decentralization in France.

ing themselves a little; hence the quakes of 1830, 1848, 1851, and 1870.¹ When a partisan solidarity has been in process of formation, an upheaval of one sort or another has shaken things up.

This, however, is not the only reason for the party decentralization and instability which exists in France, although it is perhaps the most important one. Something must also be attributed to the French political temperament, which is strongly individualistic. For centuries the French people had their independence of political thought repressed. They were compelled to support governmental policies which they did not approve. Then came the great upheaval of 1789 with its over-stressing of *Liberté* and *Égalité*. Every Frenchman was set free to be his own boss in politics and he proceeded to make the most of his opportunities. He cast about for issues on which he could differ from his fellows, rather than for issues on which he could agree with them. By declining to be a "regular" in the ranks of any political party, and by reserving the right to change his leaders overnight, he believed himself to be demonstrating the fact that he was the equal of any other man. This psychological association of independence with equality has colored the whole national temperament. The average American voter has no political program; he accepts what one of the major parties may give him. If you ask him whether he favors self-government for the Philippines he will not recur to first principles and recite a well-known passage in the Declaration of Independence about "the consent of the governed." No, he will answer you, nine times out of ten, in strict accord with the attitude of the political party to which he belongs.

That is not the Frenchman's way in politics. He has a *politique* of his own and the program of a political party must conform to this or he will desert it. If he believes in a larger army he will not support any party that does not urge this policy, no matter how acceptable the rest of its program may be. He wants to be a member of a group that is absolutely united at every point and to support a leader whose mind runs in exactly the same channels as his own. In general his allegiance is more often to a leader than to a group. In the United States

¹To these serious earthquakes one might add the tremors caused by MacMahon's *Seize Mai* (1877), the Boulanger episode (1885-1890), the Dreyfus case, and the quarrel between the church and state. See the author's *Governments of Europe* (New York, 1925), pp. 490-502.

those who ran amuck with Roosevelt in 1912 called themselves Progressives. In France they would have been called Boulangists, Juarists, or Clemencists, as the case might be. But these traits of the national temperament must not be over-emphasized. It is always dangerous to generalize about the psychology of a whole nation. We should attempt no more than an indication of general tendencies, allowing for exceptions on a large scale. But France has rebelled against existing governments so often that political insurgency is much more nearly the normal state of affairs than it is in England or America.

Still, the situation seems to be improving. Twenty years ago it could fairly be said that the various groups which called themselves parties in France were nothing but factions, without comprehensive or stabilized programs, without fundamental bonds of cohesion, and without any real organization of their members. Candidates were afraid to trust the party label for much; they depended for election upon personal statements of policy and upon the campaign efforts of their own personal followers. It was largely a case of every politician for himself, and this was especially true of municipal campaigns. So loose, indeed, was partisan allegiance that politicians sometimes belonged to two political parties, or even to more than two, at the same time! Frenchmen saw nothing anomalous in this, any more than an American sees absurdity in his fellow-citizen who belongs at one and the same time to the Elks, the Oddfellows, and the Knights of Pythias. Party allegiance in France has been traditionally an *affaire de sentiment* and not a matter of creed or principle.

In national politics, however, the attachment of the French voter to his political group has been steadily acquiring a more stable basis. There are as many *groupements* as ever, but they have become more regularly organized, their programs have acquired greater definiteness, and the ones whose programs are most nearly akin have learned the art of working together. The *bloc national* which controlled the government of the Republic during the years 1920-1924 was to all intents a single party. So, to most intents, is the *bloc des gauches* which drove it from power at the election of 1924. A bloc, however, is merely a working alliance of smaller groups or parties each of which has its own organization, committees, workers, and campaign funds.

But the situation is now changing.

French and American conceptions of party allegiance are now becoming more nearly alike.

Ostensibly each "party" in the bloc retains its full independence, but since victory at the polls is a matter of consolidating their strength, this independence gives way to the demands of unity when the occasion arises.

The reason
for this.

In national politics, therefore, the French party system is drifting slowly and somewhat reluctantly towards the sort of line-up with which we are familiar in America. It must inevitably do so. "Steam and universal suffrage", says a shrewd French writer, "have this in common, that they compel the use of machines." When political power passes into the hands of the whole people it is inevitable that party machines shall come into existence, because election campaigns are not won by declarations of independence. Victory at the polls, as on the battlefield, does not go to the biggest battalions but to the ones that are best organized, best disciplined, and led by men who have a plan of campaign. Guerilla bands may give the enemy trouble, but they do not win the war. All this must seem elementary to anyone who is familiar with the great game of politics as it is played in English-speaking countries, yet Frenchmen have been slow to realize it. The Socialists learned it first and the other factions are following.

Parties
in the
French
cities.

As yet, however, this welding of groups into blocs has had relatively little effect upon party politics in municipal campaigns. The voters in the towns still regard political independence as a self-evident virtue and look upon it as something to be positively encouraged. Nothing ruffles a Frenchman's temper more quickly than the assertion that he is taking his political opinions ready-made. He is more ready, as has been said, to give his allegiance to a leader than to a program, and France is full of men who want to be leaders. It is true, of course, that personalities everywhere play a larger part in urban than in rural politics, but this is particularly so in the French Republic. The candidates usually get far more attention than the issues which they are supposed to represent. All of which is not surprising, for the issues in French municipal campaigns are rarely well defined. It is not that one group of candidates for the council desires municipal ownership of public utilities, as in London, for example, while another group opposes it. Candidates rarely get down to issues so localized and so clean-cut as this. They prefer to give the voter a philosophy of politics,

a set of principles clothed in emotional oratory. Their manifestoes, as a rule, are couched in resounding phrases which may mean anything, everything, or nothing at all. They dilate on the rights of man, the soul of France, and the ideal of human brotherhood—with an apotheosis of democracy thrown in for good measure. Very little is ever said in these declarations concerning the candidate's own public record, or what he has done for the people in the past, or what measures he will support if elected. His speeches during the campaign are as impersonal as they are eloquent. Therein the would-be councillor in France differs from the would-be alderman in an American city, for the latter spends one half his time "pointing with pride" to what he has already accomplished for his ward and the other half promising what he will do if the voters give him the opportunity.

Thus it comes to pass that in a French municipal campaign, there is very little discussion of strictly local problems or issues. Questions of national, or even of world politics, eclipse them all. If you attend a rally during the municipal campaign in Bordeaux, for example, you are likely to hear stirring speeches about national security, the Moroccan question, the Syrian mandate, the French debt to the United States, the capital levy,—about everything, in fact, but the needs and problems of Bordeaux. This is not surprising when one bears in mind, however, that the candidates for the municipal council in the larger cities are frequently active in national politics as well. Not uncommonly they are already members of the Chamber of Deputies, or expect to be candidates for that body at the next national election. This dual, or even triple, holding of elective office is not resented in France as it is in America. We would deem it incongruous for a man to be a city councilman or mayor in Baltimore and at the same time a member of Congress from Maryland. But Frenchmen see nothing objectionable in this dual service. Edouard Herriot, for example, continued to serve as mayor of Lyons after he became prime minister of France, although either of these posts would seem to have been onerous enough for any man. At any rate it is easy to see how this frequent duality of office-holding, in city and in nation, or in city and department, encourages the injection of national and department politics into the municipal campaigns.

The absence of local issues.

General
lines of
party
cleavage.

This is hardly the place to enumerate the national party groups in France or to explain what these various groups stand for; much less to narrate the way in which each came into existence. But it is necessary to mention that there are at least nine or ten parties, so-called, with varying degrees of strength throughout the country. Each has its distinctive name but it would serve no purpose to list them here, for the names are not always indicative of what the party represents, and in some cases they are altogether misleading. Among the Socialist groups, for example, those who call themselves Radical Socialists are the least radical of all. But if you were to label each of the various groups with the term which in English would most nearly correspond to its general attitude on political issues, you would call them Reactionaries, Conservatives, Liberal-Conservatives, Independents, Moderates, Progressives, Liberals, Moderate Socialists, Extreme Socialists, and Communists. The first four are commonly referred to as the parties of the Right, the next three are the parties of the Center, while the last three are the parties of the Left. From Extreme Right to Extreme Left they represent all shades of political opinion from blue Toryism to red Proletarianism. Any French voter, whatever his preferences, can usually find a shoe to fit him.

Indistinct-
ness of
these lines.

In England and in America the voter has no such range of choice. He must meet one of the major parties half way. And having made this concession he is likely to stay with the party that he has chosen. He will swallow things in its platform even though they be distasteful to him. It is probable that in the United States two-thirds of the voters in the Republican, Democratic and Socialist parties stay "regular" year after year. That is not true of the various political groups in France. Save for the extremists of the Right and the Left, most French voters assert the right to change their group-affiliations at will. If one group does not suit the citizen, he tries another. As a young man he may support one of the groups of the Left, but when age and maturity sober his exuberance (as they usually do), he gravitates toward the Right by easy stages—by steps so gradual that he may be himself unconscious of it. For an American to abandon one party and adopt another is something of a wrench. It may involve some searching of heart. But the Frenchman who slides from a place

in the Left to the Left Center or back again hardly realizes that he is doing it. This fluidity of French politics is one of its outstanding characteristics.

Nevertheless it is altogether likely that some of these party divisions would be obliterated were it not for the fact that every political group, once it is formed, develops a small corps of adherents who cling to it faithfully, whatever happens. They may do it from conviction, or from habit, or from a desire to be different. The leaders of each group, moreover, fight hard to keep it alive. If the original reason for its existence disappears, they will concoct another. We commonly say that people "choose" the political party to which they belong, and some of them do, but in all countries some people are born into a party and stay there. Personal choice, however, is a much larger factor in France than in England or the United States. Party lines are least rigid where the number of parties is largest.

The influence of habit.

In France, as has been said, the national party divisions run through the cities. But this does not mean that each national group nominates its slate of candidates in municipal campaigns, or conducts its own battle for them. On the contrary, the smaller groups almost always form coalitions or combinations which result in reducing the number of slates to four or five and sometimes to only two or three. Parties which are at odds today may be allies tomorrow. It all depends upon what dickers and trades the leaders can make. Some alliances are impossible, of course. The groups of the Extreme Right would not, under any circumstances, join forces with the Communists or even with the Unified Socialists. But among the middle groups there is no insuperable barrier to an entente at any time or in any municipality.

National and local party lines roughly coincide.

In the United States all the political parties are organized on much the same general lines. Each has its national committee, state committee, and local committees, with their chairmen, secretaries, and treasurers. In France there is no such uniformity of organization. Some have only the barest outlines of an organization. Others, particularly the Socialist groups, have a very elaborate hierarchy of officials and committees. They have local conventions, city conventions, and a national federation. The Unified Socialists in France have little to learn from the major American parties as respects systematic organization

Party organization.

on a nation-wide scale. Its national council has assumed control not only over the members of the party in parliament but over the party workers in the local committees and over the party press. It has a definite program and any candidate who wants the support of the party must sign a pledge that he will help carry out this program. But there is as yet no such machine-like organization among the parties of the Center or the Right. Some of them are still functioning on a go-as-you-please basis. Nevertheless the system of discipline in all the groups is being steadily improved and stiffened. Better organization is the price of their existence, for if they do not meet the Socialists with an equal display of organizing efficiency they must expect to be regularly defeated at the polls, and no party can hold its followers without at least the hope of occasional victories.

The rise of the Socialist party in France, like that of the Labor party in England, has had three far-reaching effects upon party organization. First, it has accentuated the identity of party lines in national and municipal politics. These lines have always been roughly identical, but the Socialists are making them absolutely so. This is logical enough, for Socialism is a creed. You cannot be a believer one day and unbeliever the next. Socialism exacts from its adherents a loyalty to the cause in all elections, no matter what the incidental issues may be. Second, the Socialists have forced all the bourgeois parties to organize, to improve their methods of campaigning, and to broaden the basis of party control. They have constrained them to make it appear that the rank and file of the party, and not the leaders alone, control its program. And, finally, they have to some extent compelled the welding of small party groups into semi-solid blocs. Bloc-making is a game that two can play. The Left began it and the Right was forced to meet the situation by similar moves. Thus was introduced a factor which must inevitably make for the consolidation of groups on something like a permanent basis. Strange as it may sound, therefore, the Socialists are compelling Europe to Americanize its party system.

With these preliminary explanations, let us now see how candidates are brought forward in French municipal elections. A distinction should be made between the large and the small communes. In the little places (those that we would call towns

What the Socialists have taught the other parties.

Party activities in city elections.

and villages) the party groups are not really organized and do not function actively. The same councillors are often elected term after term without much reference to their party affiliations. But in the larger communities, such as Lyons, Marseilles, Bordeaux, and Nantes, there are committees and local headquarters for each of the more important groups. Some weeks or months preceding the municipal election in these larger cities there is a stirring among the leaders of the various groups. There are conferences and *pourparlers* in which proposals and counter-proposals of joint action are considered. Certain combinations can ordinarily be taken for granted; others have to be brought about by skilful manœuvring. Presently one slate of candidates is announced, with certain groups supporting it. Then another list appears. These lists are not always quite different; the same candidate may appear on more than one of them. But as a rule there is not much overlapping. Each list is printed in the form of a ballot and sent to the voters accompanied by a circular extolling the virtues of those whose names appear. The voter may get half a dozen of these ballots and circulars during the fortnight preceding the election day. Individual candidates may also prepare ballots containing their own names in various combinations with others.

The selection of candidates.

Meanwhile active work is done on behalf of the various candidates by the party organizations, or by the *blocs* of party organization which have brought them forward. Some of these organizations have membership dues and campaign funds. Others have no members regularly enrolled. But even among the best organized groups the work of getting the voters registered, rousing their interest, and bringing them to the polls has not yet been reduced to an exact science in any French city. A Tammany district leader, if set to observe the methods used in a French municipal campaign, would pronounce them very crude and amateurish. And deservedly so, for the precision and finesse of the American political machine are lacking.

The forming of alliances and blocs.

Much work is done in French municipal campaigns by clubs which combine social with political activities. These clubs are numerous in all the larger cities. They do not usually have any regular headquarters but meet in some café or public hall. Each has its own bureau or committee of management, usually made up of prominent local politicians. Meetings are held fre-

The political clubs.

quently, with *conférences* or addresses by political leaders, and sometimes debates between two of them are arranged. When the election campaign assumes an active form, the clubs arrange for public meetings (*réunions électorales*) to which the friends of members are invited and which are addressed by the candidates whose election the club favors. Some of the clubs have a rather mercantile membership and draw largely from the business element; others are made up of journalists, officeholders, and politicians; others, again, are composed almost exclusively of workmen. Any voter, whatever his vocation or his political leanings, can usually find a club to his liking. It should not be supposed, however, that most voters do belong to these organizations. They are made up of the politically active; the men who have a flair for politics. And this element, in French cities, does not comprise the greater part of the population.

The secret societies.

Various secret societies are also active in both local and national politics. The Freemasons (known in France as members of the Grand Orient) are often charged with more political activity than appears on the surface and the same is true of other less well-known secret orders. It is said that these various bodies afford the machinery whereby political alliances can be effected in secret, and often on a basis of class or religious feeling. Their influence, according to so fair an observer as Lord Bryce, "is unhealthy because irresponsible, prone to intolerance, and easily made the tool of selfishness or social persecution."¹

The campaign atmosphere.

It is sometimes said that the French people are not politicians by inclination and cannot be so easily aroused by an election as Irishmen, Englishmen, or Americans are. This is probably true—especially of rural Frenchmen. In the cities, however, the onlooker gets the impression that the people are as much wrought up as in any other country. A municipal campaign in Marseilles or Bordeaux, so far as the superficial indications go, seems to provide almost as much excitement as one in Buffalo or Los Angeles. One should bear in mind, moreover, that the French voters do not elect the mayor, hence the chief inspiration to excitement, as it exists in most American municipal campaigns, is altogether lacking in France. It is likewise to be remembered that the French are a people with an æsthetic sense. They dislike crudities and inartistry. The blatant campaign

¹ *Modern Democracies* (2 vols., New York, 1921), vol. i, p. 322.

posters, the brass bands pounding out the raucous strains of "East Side, West Side, All Around the Town"; the red fire and the street corner rallies—these banalities of American municipal campaigning, which are a hangover from frontier days, would not appeal to the imagination of the populace in any French municipality. Nor will they appeal to Americans when America is as old as France.

The newspapers are partly responsible for giving the observer an impression of more widespread political interest than probably exists among the people. During an election campaign in the larger cities, they feature political events and political discussions above all things else. Flaming editorials, most of them with little reference to the immediate issues, stare at you from the front page. In agonizing rhetoric they fairly beseech the voter to save his city from disgrace by voting for this slate of candidates or that. Sometimes they assail the opposing side with a virulence which would scarcely help the cause in England or America. The candidate whose defeat is desired may be ridiculed and blackguarded by turns. The worst journals make their living out of political blackmail and other forms of journalistic turpitude. Even the best of them are not always beyond the reach of sinister influences. The French newspaper is the personal organ of its editor and he is usually at no pains to conceal his own attitude toward men or measures. He signs his name to the editorials that he writes. American editors often justify the contents of their journals by the reply that they are giving the public what it wants. But French editors do not follow this canon of journalistic policy. "They give the public what they think the public ought to want, and the public takes what is given it."¹

The newspapers always afford some lively reading during a French municipal campaign, and the editor may have more than one challenge to a duel before the campaign is over. But the readers do not seem to share the feelings which pervade the editorial sanctum. They are but mildly stirred, and often amused. Campaign "literature" is also sent to voters through the mails in France, but not so plentifully as in America. And the special billboards, erected for the purpose at the outset of every municipal campaign, are also used by the candidates for posting

The newspapers in municipal politics.

Incidents of a French municipal campaign.

¹ Laurence Jerrold, *The French and the English* (New York, 1916), p. 132.

affiches. These posters announce the meetings and sound a clarion call for the candidate's cause. The French make less use of political cartoons than the English do, and there is less personal canvassing of voters than in England. These things cost money and the candidates do not have much money to spend. Nor do they have jobs which they can promise their supporters as the spoils of victory. A municipal campaign as it is conducted in America requires the whole time of many people and the expenditure of a large sum of money. It is made possible by the fact that we have thousands, in every large city, who live off the public payroll and who can devote their time (or much of it) to campaigning when a campaign is on. Their political jobs are intended to facilitate, not to interfere with, their electioneering activities.

But in France, where there is no such available force of workers (maintained at the public expense for the party's benefit), the work has to be done by volunteers or left undone altogether. And most of the sources which can be tapped in the United States for campaign contributions are not at hand in France. Public utility companies, municipal contractors, and others who have dealings with the French city do not contribute large sums to campaign funds as a matter of course. To assess all officeholders a percentage of their salaries, as Tammany has sometimes done, would raise a great ruction in France—and what is more, the assessments would not be paid.¹ So the French party organizations have to depend on membership dues and on small voluntary subscriptions, supplemented by what the candidates personally contribute when they can.

But there is no reason to think that the French city is a loser on this account. Judged by the quality of the men elected to the municipal councils it seems to be a gainer. These men, taking them as a whole, appear to average higher than the aldermen and councillors of American cities. Of course there is no way of making a mathematical comparison. There is no yardstick by which we can measure public officials in one country and say that the average is higher than in another. It is all a matter of individual opinion, and opinions in this field are

The caliber
of the men
elected.

¹The United Socialists, however, have a rule that every member of parliament elected by the party must pay a proportion of his salary into the party war chest.

not worth much, for they are always colored by the personal bias of those who form them. A French business man will tell you that his city councillors are an indifferent lot, being mostly young politicians who hope to use the council as a stepping stone to the Chamber of Deputies. He will add that they are not to be taken seriously, and remind you that the prefect is the man who governs the city. But you must discount this pessimism somewhat, for it is the habit of men who are not in politics to underrate the quality of those who are. The business man is prone to judge politics by his own standards, and of course they make a rather poor showing from that point of view, but it is hardly a fair standard from which to make an appraisal.

CHAPTER XV

THE FRENCH MUNICIPAL COUNCIL

The French city council is an elective body.

Members of the French municipal council are elected by the people. They are the only persons connected with the government of the commune who are chosen in that way. All others are appointed. The number of councillors varies with the size of the community—not exactly, but in a general way. In villages of fewer than five hundred inhabitants there are ten councillors. In a commune of twenty-five hundred inhabitants the number is sixteen; in one of ten thousand it is twenty-three, and so on up to a maximum of thirty-six councillors in each commune of more than sixty thousand people.¹ In comparable municipalities the French council is thus about the same size as that of an English borough, but considerably larger than local legislative bodies in America. Marseilles is about half the size of Birmingham and it has exactly half as many councillors. Philadelphia is bigger than both of them put together, yet its city council includes only twenty members.

The municipal suffrage.

The suffrage requirements for voting at council elections, the methods of nomination, and the electoral machinery have been explained in a previous chapter. In municipalities of less than ten thousand the whole council is elected at large, but where the population exceeds this figure the commune may be divided into wards (*sections électorales*), each of which elects its proportionate number of councillors. Election by wards may also take place in cases where the commune is made up of several distinct settlements, or "agglomerations" as the municipal code calls them. Most of the larger communes have been divided into wards.

Organization of the council after the elections.

In France the council elections are held on the first Sunday in May. When a second election is necessary it is held on the Sunday following. Immediately thereafter the municipal coun-

¹ Paris is excepted from this maximum and has eighty councillors. Lyons is also an exception, having fifty-seven councillors.

cil meets and is duly organized. A table of seniority is prepared and the members-elect take seats according to this order. One of them is elected secretary, but his post is honorary and an assistant secretary is appointed from outside the membership of the council and is paid to do all the work. At its first session the council also elects, in a manner to be explained later on, a mayor and one or more adjoints. The senior councillor presides while the mayor is being chosen, but thereafter the mayor presides at all sessions except the one at which his annual report is being considered. When his report and accounts are under discussion the chair is occupied by some adjoint or councillor chosen for the purpose. The mayor may remain in the council-chamber, however, and may be called upon to answer questions, but he must not be present when the vote is taken. When the presiding officer calls for a vote on the matter, the mayor must leave the room. Then the *compte rendu*, containing a statement of the council's action thereon, is transmitted by the presiding officer to the subprefect or prefect as the case may be.

The first session.

In addition to the May session the municipal council must hold at least three other regular sessions during the year,—in August, November, and February. The exact date upon which the council convenes is fixed by an *arrêté* of the prefect, or, in the absence of such a decree, it may be convoked by the mayor. Meetings are held at the mairie or municipal building, and business done elsewhere has been held by the Council of State to be illegal. Ordinarily the deliberations of the council are open to the public, but even in the largest cities they attract very small audiences. Secret sessions may be decided upon at any time by majority vote of the councillors present.

Regular sessions.

Sessions are public.

In addition to the four regular sessions the prefect may at any time authorize special meetings or the mayor may convoke the council of his own accord. A special session must be called at any time if a majority of the councillors request it. When a meeting is held otherwise than as a result of the prefect's orders, this official must forthwith be notified and must be given the reasons for such action. The prefect cannot, however, prevent the council from convening whenever it chooses. He is merely entitled to be informed and to have a representative present if he desires. A regular session of the council must not ordinarily last more than fifteen days, but the session at which the municipi-

Special sessions.

Time limits on sessions.

pal budget is considered may be prolonged to any period not exceeding six weeks, and a further extension of time may be had for any good reason. This extension is obtained from the prefect or the subprefect. For special sessions the law fixes no limit of time.

A feature
of French
council
sessions.

In one outstanding procedural feature, therefore, the French city council differs from the councils of other countries. It remains in session day after day, as legislatures do. In England and the United States the city council meets at frequent intervals,—weekly, fortnightly, or monthly, but only for a single afternoon or evening. This plan has the advantage of permitting urgent matters to be brought promptly before the council. In France the council meets much less often; hence, when it does convene it finds so many matters waiting for consideration that in the larger cities it has to prolong its sessions over many days. And when its work is done it adjourns with the formality of a parliament or legislature. The result of prolonged intervals between meetings is that business, unless it be urgent, must often wait for a considerable time; but the practice of holding special sessions as often as once a month is now becoming more common in the larger cities. In the smaller cities the mayor frequently settles the more urgent matters on his own responsibility, after consultation with the adjoints or other prominent members of the council.

Limitations
on the
council's
freedom of
discussion.

In the United States the city council can discuss or debate anything it pleases. It may commend or condemn something that the President or Congress has done or has failed to do. It may adopt a resolution favoring the independence of Ireland or deploring the persecution of the Armenians in Turkey. More than one American city council has devoted whole sessions to these and other topics which lie several thousand miles outside its jurisdiction. But in France the municipal code makes express provision that the council must not discuss any matter which is not clearly within the scope of its powers. It must not concern itself with any matter of national or departmental politics and, above all things, must not indulge in any criticism of the policy or actions of the prefect, or of any other national authority. An infraction of this rule renders the council liable to reprimand, and for persistent violations the prefect may suspend the councillors from office. But the rule against political dis-

cussions is widely honored in the breach. When a councillor is at the same time a member of the Chamber of Deputies it is virtually impossible to keep him from provoking a discussion of national politics. And no matter what the laws may provide, it is not often wise to discipline him for so doing.¹

According to the provisions of the municipal code, the prefect may suspend the councillors from office for any period not exceeding one month; or, if this discipline is not sufficient, he may report the matter to the President of the Republic who, in turn, may dissolve the council altogether and replace it with a municipal commission composed of from three to seven members appointed by himself.² But this commission may deal with urgent matters only; it cannot pass the annual budget or make any change in the personnel of municipal administration.³ It can merely keep the wheels of administration going until a new council is elected, and this election must be held within two months.⁴ Councillors who have been removed from office are eligible to reëlection.

Suspensions and dissolutions.

This power of suspension and dissolution gives to the central authorities a whiphand over every municipal council, enabling them to hold it to its duties and responsibilities. But such a drastic power has in it the elements of danger. When, for example, the prefects and the councils represent different political blocs (as they often do) this disciplinary power may readily become a weapon of political pressure. On the whole, however, the power of suspension does not appear to have been arbitrarily used, and in any case there is a right of appeal to the Council of State which can annul the decree of suspension. As the highest administrative court of the Republic, it has power to do this in any case where an abuse of power (*détournement du pouvoir*) is shown. It should be remembered, moreover, that the prefects are responsible to the minister of the interior, who may be in-

The council and the prefect.

¹ Even high authorities sometimes violate this rule. A striking illustration was given by Edouard Herriot, mayor of Lyons, when he became prime minister of France. At the first meeting of the Lyons city council, after he had accepted the post of prime minister, M. Herriot gave an extended account of the difficulties that he had encountered in forming a ministry and launched into a general defence of his own policy.

² *La loi municipale*, Article 43.

³ *Ibid.*, Art. 44. Some interesting discussions concerning the powers of these interim commissions (*délégations spéciales*) may be found in the *Revue générale d'administration*, especially 1897, II, 65; and 1899, I, 183.

⁴ *La loi municipale*, Article 45.

terpellated and called to account in the Chamber of Deputies for any acts of his subordinates. Even the President of the Republic, in the exercise of his power of dissolution, acts only upon the advice of his ministers. A safeguard against arbitrary action on the part of the central authorities is thus to be found not only in the administrative jurisdiction of the Council of State but in the responsibility of the ministers to parliament.

The
council's
procedure.

In addition to these general limitations on the scope of its discussions, several minor restrictions relating to procedure are imposed by law upon the French municipal council. The council must not proceed with any business, for example, unless a majority of the councillors are present; but if, after two successive meetings (called at intervals of three days) this quorum has not been secured, such members as happen to be on hand may proceed.¹ Provision is made that the seat of any councillor who has been absent from three consecutive sessions may be declared vacant by the prefect unless the absentee furnishes the council with satisfactory reasons for his absence. Councillors are not permitted to resign from office except by filing written resignations with the prefect. On all questions a majority vote of the councillors is sufficient, and in the event of a tie the mayor has a casting vote.²

Methods
of voting
at council
meetings.

Three different methods of voting at council sessions are recognized by law: (1) the ordinary standing vote, which does not involve the use of a ballot and which is the usual method of deciding questions; (2) the non-secret ballot; and (3) the secret ballot. At the demand of one fourth of the councillors, the non-secret ballot—that is, a ballot on which the name of each councillor is signed—may be employed, and the secret ballot may be called into service when one third of the councillors so request. The secret ballot must also be used in the election of the mayor, or the adjoints, or any other official. The non-secret ballot is the customary means of getting the votes of the councillors recorded in the official proceedings; hence it is to all intents the equivalent of a roll-call.

Publicity
of
business.

Although, as has been said, the deliberations of the council are ordinarily open to the public, provision is made for secret

¹ *La loi municipale*, Article 50.

² *Ibid.*, Article 51. The mayor cannot refuse to cast this deciding vote (*Revue générale d'administration*, 1894, I, 287).

sessions when so ordered by a majority of the councillors. Prior to 1871 both the press and the public were always excluded from council meetings, and this secrecy was regarded as one of the many objectionable features which characterized the system of municipal government during the Second Empire. Even after 1871 the authorities of the Third Republic lent sanction to the practice of secret sessions for the time being, although the desirability of throwing the meetings open to the public was several times debated in the French parliament. Some wanted public sessions made mandatory; others desired that each council be given the right to decide the matter for itself. In the end they compromised on the rule which now exists. The minutes of every session, whether secret or open, must be posted at the door of the town hall within eight days after the close of the meeting and a copy of them, with any other records desired, must be furnished to any voter who demands them.¹

The powers and duties of the French municipal council are set forth at length in three or four articles which constitute the most comprehensive and the most important section of the whole code.² This portion of the law opens with the broad statement that "the council regulates by its deliberations the affairs of the commune", but it then proceeds to limit this general grant of power and to impose restrictions upon the way in which powers may be exercised. Those who drew up the law of 1884 recognized the importance of these paragraphs and gave much consideration to the various provisions that were finally inserted. With respect to the proper division of powers between the council on the one hand and the mayor and his adjoints on the other, there was not much difference of opinion; but as to what powers should be given to the council to be exercised independently, and what powers should be vested in it subject to the control of the prefect, there was a good deal of disagreement. As finally framed, therefore, the article embodied the results of compromises between those members of the drafting commission who favored a broad measure of municipal home rule and those who wanted a large amount of central supervision.

The general powers granted to French city councils by the municipal code may be grouped into three classes. Some are purely advisory; that is, the initiative rests with the higher

The
council's
powers.

They are
of three
general
classes:

¹ *La loi municipale*, Articles 56-58.

² *Ibid.*, Articles 61, 68-70.

authorities and the council has nothing but the privilege of tendering its advice, which may or may not be accepted. A larger number of powers go farther than this—they may be exercised by the council on its own initiative but they do not become effective until the approval of the higher authorities has been obtained. A third group includes some powers which the council possesses independently and for the exercise of which it requires no outside approval.¹ These three classes of powers are not kept absolutely distinct, however, and the Council of State has frequently been called upon to define their boundaries. A great mass of administrative jurisprudence has been accumulated upon this subject.

1. The
advisory
powers.

Let us look, first of all, at the advisory powers; those upon which full liberty of action is retained by the higher authorities but which must not be exercised until after the advice of the council has been asked.² The higher officials, as has been said, are not bound to follow advice when it is tendered, and if a council refuses to express its opinion they may proceed without it; but advice must be asked as a preliminary to legal action, otherwise the Council of State will annul the whole proceeding. In this class of powers belong various matters relating to the changing of municipal boundaries, the administration of the system of poor relief, the laying out of main streets and highways, the acceptance of gifts and legacies by charitable institutions situated in the municipalities but under state supervision, and various matters pertaining to the local schools. The list used to include various matters connected with the administration of public worship, but the national laws have now greatly diminished the share which either the higher or the local civil authorities may assume in the administration of ecclesiastical affairs. Church and state have now been divorced in France for more than twenty years.

Besides being obliged to consult the council on all the matters enumerated, the national government may at its discretion instruct the prefect to obtain the advice of the council upon any other question with respect to which it deems such advice worth while. This it sometimes does in order to postpone action which

¹ A clear analysis of the powers given to French municipal councils by the code may be found in Morgand's *La loi municipale* (10th edition, Paris, 1923), vol. i, pp. 456-550.

² *La loi municipale*, especially Article 70.

would be embarrassing to the higher authorities, or in order to make the council take a share of the responsibility.

A more extensive class of powers are those which can be exercised by the council on its own initiative but are subject to higher approval. Thirteen such functions are enumerated in the code.¹ Of these the most important are connected with the purchase, alteration, mortgaging, exchanging, selling, or leasing of any municipal property. Many of the French cities possess considerable property, some of which yields a large income; but although this property is legally regarded as belonging to the commune, and not to the department or the nation, the municipality is restrained from dealing with it at full discretion.² In this class of powers subject to higher control are also included all matters relating to alterations in municipal highways, the naming and renaming of streets and squares, the establishment and closing of parks, gardens, and other public grounds,—everything, in fact, pertaining to the administration and use of municipal thoroughfares whether by the municipality itself or by public utility companies.

2. Powers subject to higher control.

At this point it may be well to recall the distinction (already pointed out) between main and minor highways. All main highways, even though they pass through a commune and are regularly used as its streets, are within the category of *la grande voirie* and the local authorities have nothing to do with them. Such highways are built, maintained, and repaired by the national or departmental authorities. But minor roads, not used as main arteries of traffic, are within the category of *la petite voirie* and as such they come under the jurisdiction of the municipal council. But not entirely so, for all plans relating to the construction, widening, paving, or zoning of such streets, all regulations establishing building lines, all grants of privileges

The matter of streets.

¹ *La loi municipale*, Article 68.

² Communal property in France is usually divided into three classes: (1) lands and buildings devoted wholly to public uses,—the town hall, for example; (2) property rented to private parties and hence yielding a revenue to the commune; and (3) the so-termed “commons” or land in which the inhabitants of the commune have certain rights of pasturage, etc. Strictly speaking, the legal ownership of all three classes of property is vested in the commune as a corporation; but the commune is by French law regarded as a *mineur en tutelle*, or ward, of the national government and hence is restricted in the disposition of its estates. For a further discussion of this topic, see Imbart de La Tour's *Des biens communaux* (Paris, 1899), and Roger Griffin's *Les biens communaux en France* (Paris, 1899).

in such streets, and even the traffic rules must be submitted to the prefect for his approval. Complaint is often made that this need of prefectorial approval is unfair to the municipality which has to pay the entire cost of constructing and maintaining minor highways. When any question arises as to whether a street comes within one category or the other, this issue is settled by the higher authorities, subject to review by the Council of State. But in general every street which bears even a small amount of through traffic is rated as a main highway and taken entirely out of the municipal council's jurisdiction.

A divided
control.

This division of jurisdiction over public highways naturally has a direct relation to the whole question of public utilities in French cities, for the establishment and operation of all the great public services involve the use of the streets. Franchises which convey the right to use the main streets may be given only by the authorities of the department or of the national government, and the conditions under which such franchises may be granted are governed by the general laws of France. When the franchise is designed to carry with it rights in none but the minor streets of a municipality, it may be granted by the municipal council; but before any such grant becomes valid the ratification of the prefect must be secured.¹ As a matter of fact, however, no public service of any importance can be restricted to the minor streets. The use of both classes of highways is necessary and in the case of some utilities (street railways, for example), it is the use of the main streets that is chiefly desired. Since, then, the council can give to no private company any rights in all the highways of the municipality, its power to grant franchises is of scant importance. Even when it decides to embark on a policy of municipal ownership, the city cannot use its own main streets for laying gas mains or lighting conduits without permission from the higher authorities. If it desires to lay tracks for a municipal street railway, it must also go to the higher powers for leave to use its own principal thoroughfares. From all this it will readily be seen that the municipal code, in giving the council a comprehensive grant of power "to regulate the affairs of the commune", does not mean what it says. It

¹ In some cases this privilege rests with the mayor as an incident of his "police power", but, if the public interest seems to demand, the prefect may grant privileges which the mayor refuses. *La loi municipale*, Article 98. See also *below*, p. 298.

takes away with the left hand what it has apparently given with the right.

When a private company desires to establish or to extend a public lighting or street railway service, it must file at the prefecture a formal application accompanied by detailed plans. Then the prefect fixes a convenient date for the holding of an inquiry; meanwhile he names a commission of seven or nine members drawn from the prominent business men and property owners of the city to conduct this inquiry. After due notice has been given to all who are interested, the commission opens its *enquête* by summoning those persons, whether officials or private citizens, whom it thinks may have views worth listening to. These are heard, and the gist of what they have to say is framed into a report, or *procès verbal*, which is then submitted to the prefect. The latter usually calls upon the local chamber of commerce and other representative bodies for their opinions upon the application, and having obtained these he finally sends the whole *dossier* to the general council of the department to be used by it in determining whether the application should be granted or refused.¹ When the proposal involves the use of streets in more than one department, hearings are held in each department concerned, and the reports are transmitted to the minister of public works at Paris. In such cases the national authorities pass upon the application, as they do also in any case where the use of a *route nationale* is involved. When disagreements arise between the public authorities and the holders of the franchise, these controversies are not decided by a special public service commission, as in the United States, but by the regular public authorities or by the regular administrative courts, according to the nature of the controversy.

Franchises
to private
companies.

Another function exercised by the council under strict supervision at the hands of the higher authorities is the voting of the municipal budget.² This budget, as will be seen later, is prepared by the mayor and is considered item by item at one of the stated sessions of the council. It is prepared in triplicate and when it has passed the council a copy is sent to the prefect

The
municipal
budget.

¹ The general council of the department is a sort of provincial legislature. Its members are elected by the people.

² The regulations relating to municipal budgets are contained in *La loi municipale*, Articles 132, 145-150. See also Charles Sol, *Le budget municipal* (Corbeil, Seine et Oise, 1925).

for his approval. If, however, the total revenue of the municipality is estimated in the budget at more than nine million francs, another copy must be forwarded to the minister of the interior for approval, on his advice, by the President of the Republic.¹ In each case the copy must be accompanied by such data as the financial and legal experts of the prefecture and the ministry may ask for. These explanatory documents must in all cases include copies of the council minutes, the mayor's annual report, the treasurer's annual statement, and various other papers of a similar nature. Each must be prepared on standard forms in order that the higher officials may do their work quickly.

The prefect (or the minister) has power to increase or to reduce any item in that portion of the budget which is devoted to estimated receipts, but in the case of items relating to expenditure he is (except in two circumstances which very rarely occur) restricted to the power of reduction alone.² The higher authorities may introduce no new items into the list of estimated expenditures except those which, though rendered obligatory by law, the council has declined to pass. After approval the budget is promulgated by an *arrêté* of the prefect or, in the case of the largest cities, by a presidential decree. If necessary, a supplementary budget may be passed by the council later in the year, but it must go through the same procedure. If the council fails to vote any budget at all, the prefect is empowered to prepare one covering all necessary expenses and to put this into force by his own order, but he must not include larger appropriations than the average for the three preceding years. In French municipal budgets the obligatory appropriations form a very considerable part of the whole and the intervention of the prefects is designed to secure proper attention to these items, which a council would sometimes be glad to overlook. On the whole, the councils have not been unfairly or arbitrarily treated in such matters, but they have been held to a strict accountability and the close scrutiny which is given to their budgets by the accountants at the prefecture has made them more careful than they would otherwise be.

¹ The limit was raised from three million to nine million francs by the Law of March 25, 1922.

² These exceptions are stated in *La loi municipale*, Article 145, par. 2, and Article 147, par. 2.

Changes
which may
be made by
the higher
authorities.

The council has power to fix the local tax rate but it is restricted as to the forms of taxation. No new or special tax may be levied for any purpose without the prefect's approval. Increases in any of the regular taxes must be similarly approved. The municipal code establishes no general tax limit, such as have been imposed upon the cities in some of the American states. Every proposed increase is left to be approved or disapproved on its merits. The reason for this strict central control over local taxation is found in the fact that the French make no clear separation between national and local taxation. No separate spheres of taxation are reserved for the national and municipal governments respectively. The two overlap and the national government must exercise control in order to protect its own sources of revenue. That is what always happens when two governments begin drawing their income from the same source. The higher authorities insist on keeping the lower in their proper place.

The fixing
of tax
rates.

Closely related to the council's power to make appropriations and levy taxes is its right to authorize borrowing on the credit of the municipality. This power is also subject to strict supervision and control. Within certain narrow limits, loans for public improvements may be authorized by the council without the approval of any higher authority; but when any large sums are required, the concurrence of the prefect must be had, and if the loan involves a special tax levy over a long period the approval of the government at Paris must also be obtained. The borrowing power of the French city is thus very closely circumscribed. When the council desires to issue bonds for any considerable project, it must submit its proposal and its plans to the prefect. These must be accompanied by comprehensive statements setting forth the details of the work, the estimated cost, the term of the proposed loan, the rate of interest, and the methods of repayment. The prefect then submits the matter to his financial advisers, who hold an inquiry, and on their recommendation he either approves or disapproves the project. In certain cases, as has been said, he refers the whole matter to Paris, where the officials of the ministry of finance make the final decision.

The
council's
power to
borrow.

This method of limiting the borrowing powers of the cities, it will be noted, is quite different from the one commonly used

A contrast
with the
American
plan.

in America. In many American states the state constitution or the state laws establish a flat debt limit. They stipulate that any city may borrow up to say five per cent of its assessed valuation (or some other such percentage) and that no city may borrow above this limit. Within the constitutional or statutory debt-limit, in other words, a city can borrow without let or hindrance; beyond the limit it cannot borrow for any purpose—unless it can obtain an amendment to the state constitution or the laws. These rigid debt-limits, as has often been pointed out, do not serve a very useful purpose in the United States. Up to a certain point they encourage unnecessary borrowing; beyond that point they place too rigorous a check on borrowings of every sort. Cities plunge along without any restraint until they reach the legal maximum. Then, when they find that they have exhausted their legal borrowing power and can float no more loans for any purpose, they either inflate their assessed valuations so as to give them some leeway or they descend upon the legislature with requests for special exemptions. And often they manage to lobby through the legislature special acts giving them power to borrow “outside the debt limit” for specific purposes. The French system of approving loans on their individual merits is clearly superior to the flat-limit plan. It is similar, in all essentials, to the English procedure.¹

The
council's
power with
respect to
gifts and
legacies.

Another power exercised by the council, but subject to higher approval, is that of accepting gifts and legacies from private individuals for public use. The American student who reads the French municipal code is likely to be astonished at the elaborateness of the provisions relating to this matter, for the codes and charters of his own country contain nothing about gifts and legacies. In America when a rich man desires to give or bequeath money for some public purpose he establishes a fund, or a foundation, or a trust, and puts trustees in charge of it. He does not usually bequeath his fortune to the city.² But in France the practice of making large gifts and bequests to the municipality is very common and partly for the reason that the laws rather

¹ See *above*, pp. 60-62.

² There are a few exceptions. Some American cities have received large gifts or bequests for parks and public buildings. Boston, for example, has the Franklin Fund (bequeathed by Benjamin Franklin), the Parkman Fund, and the White Fund. Together these funds amount to several millions of dollars.

discourage the creation of private foundations and trusts. These gifts and bequests are usually accompanied by some condition—for example, that the income of the gift be used to provide fuel for the poor, or to keep the local cemeteries in good order, or to pay for some form of public amusement. If the communes were left to their own discretion they would probably accept all such gifts, no matter what the conditions, and might soon find themselves doing things outside their province as purely governmental units. So the higher authorities have stepped in and have assumed the right to veto the acceptance of any gift or bequest that is accompanied by onerous conditions.¹

This suggests a brief digression to contrast the Anglo-American with the continental European attitude towards eleemosynary funds and foundations of all types. Most Englishmen and Americans see no objection to the creation of great endowments under private control devoted to carrying on work of a public character, such as education, or the care of the poor, or the protection of the public health, or child welfare. Hence we have, in both England and the United States, many great endowments of that character.² The trustees of these foundations and funds spend their money as they please, subject only to the restrictions imposed by the donor and by the general laws. They are engaged in public welfare work but are not under any special public control or supervision.

A digression on this matter.

In the countries of continental Europe this way of doing things is not looked upon with favor. While private endowments for public welfare work are not forbidden, the whole tendency is to emphasize the idea that large enterprises of an eleemosynary character ought to be under public administration and should not be managed by private trustees in accordance with their own views of what the public welfare demands. If, therefore, a Frenchman desires to establish or endow a hospital he is encouraged to give the money to the commune for that purpose.

¹ *La loi municipale*, Articles 111-113, modified by the Law of February 4, 1901 (*Bulletin des lois*, 1901, i, p. 1469). See also the elaborate discussions with references to the decisions of the Council of State, in Morgand (10th edition, Paris, 1923), vol. ii, pp. 81-126.

² The Rhodes Scholarships, the Carnegie Foundation for the Advancement of Teaching, the Laura Spelman Rockefeller Foundation, the General Education Board, the Commonwealth Fund, the Russell Sage Foundation, the Joseph Fels Fund, the Friendship Fund, the Garland Fund, the Guggenheimer Foundation, and literally hundreds of others.

If he wants to leave his fortune to charity, he is given to understand that the public authorities, who are already trying to help the poor, can make a better use of his funds than can be accomplished by any independent group of trustees. Too many cooks spoil the broth, and too many private eleemosynary enterprises inevitably result in overlapping, waste, and friction.

There is undoubtedly something to be said for this point of view. In the United States we have too many foundations, endowments, trusts, and funds—each pursuing its own conception of what constitutes the public welfare, each promoting this or that cause, and carrying on a vigorous propaganda for it. In some cases they are trying to do things which ought to be done by the public authorities (the erection of public libraries, for example, or the pensioning of professors in state universities, or the eradication of the hookworm, or the Americanization of immigrants). Letting public responsibilities be carried by private trustees may be a wise policy, but there is no certainty of it, and if pursued on a very wide scale it may well give rise to difficulties.

Summary.

But to return to the powers of the French city council. Subject to the supervision of the prefect, as has been said, it manages the city's property, votes the budget, fixes the tax rates, borrows money, and accepts gifts or legacies. It does various other things subject to the same watchful eye, but these additional matters are of minor consequence and need not be listed here. The power to spend, to tax, and to borrow are the three greatest powers that any local government can possess. A government which is under strict control as regards these three outstanding powers is clearly a subordinate government, without the essence of self-determination.

3. Independent powers.

Finally, as to the powers which the French city council exercises on its own initiative and without the need of obtaining approval from any higher authority. These include all powers not included in the two categories already mentioned. They form a residuum, not very extensive or important when compared with the powers independently exercised by the councils of English or American cities. Yet the French municipal council has a good deal to do with routine matters, and by its power to elect the mayor and the adjoints does, in fact, exercise a considerable amount of control over the work of the various city departments. Not only that but it often manages to make its

influence decisive in matters which are not finally within its own jurisdiction. The prefect may have a legal right to interpose his veto, but he cannot forget that the council represents the will of the community and is the organ of its popular sentiment. So he often defers to the council's insistence when his own judgment prompts him to do otherwise. Prefects have an eye to good politics. They prefer harmony to friction.

Yet in the last analysis the independent powers of the council are relatively small because not only is there the right of veto from overhead but some of the council's functions have to be shared with the mayor and the adjoints. Here arises a somewhat difficult question: What powers belong to the council on the one hand and to the mayor and adjoints (who are members of the council) on the other? In the United States such a question would be easy to answer in a general way, by saying that the council exercises legislative and policy-determining power while the mayor and the heads of departments are vested with administrative authority. But in France there is no such broad division of powers, although the functions which the mayor and his adjoints perform are mainly administrative in character. On the other hand, the French mayor has legislative authority in the sense that he issues *arrêtés* or decrees without consulting the council. This failure to make a clear distinction between legislative and administrative authority has given rise to numerous disagreements, but not to so many as might be expected, because the mayor and the adjoints are chosen by the council; they attend its meetings and they take a full share in its deliberations. They have the confidence of the council, otherwise they would not have been chosen to their posts. They must obtain appropriations from the council, otherwise their work cannot be carried on.

Consequently there is a good deal of give and take. A wise mayor does not insist on an absolutely literal interpretation of his own legal powers. He frequently consults the council when he is under no obligation to do so. On the other hand, the council, before taking any important action, listens to what the mayor has to say. And it is often greatly influenced by his attitude, especially when the mayor is the recognized leader of the majority bloc in the council. For the most part the French mayors and councils work amicably together, much more so than in American cities. There are some powers, for example, which the

The allocation of powers between council and mayor.

council exercises when it is in session but which the mayor and adjoints take over when it is not in session. Sometimes the mayor has to decide whether he will take the responsibility for doing something that has to be done, or whether it is best to call the council together in special session. A great deal depends upon whether the mayor has his council well in hand and ready to back him up when the occasion arises.

Surveying the powers and functions of the French municipal council as a whole we find that its initial authority is perhaps more extensive than that of the city council in most American municipalities, but that its final powers are considerably less. It is far more firmly held in leash by the higher authorities. The French mayor, as will be seen in the next chapter, is also far less powerful than the American mayor. He has no veto power over the actions of the council. For that reason he has cut into the council's authority much less extensively than the American mayor has done. In the United States the balance of power in city government has been swinging over to the executive branch of it; in France the legislative organ (the council) has kept the mayor from gaining authority at its expense. But its powers are not so extensive as are those of the borough council in England. England is the classic land of council government. If you want to designate in a general way the position of the council in the city government of Marseilles, for example, just place it about half way between the board of aldermen in New York and the city council in Liverpool. It has neither the sorry impotence of the one nor the assertive strength of the other. During the past forty years city councils (on the whole) have been losing power in the United States and gaining power in England. In France they have not noticeably changed either way.

CHAPTER XVI

THE MAYOR

Every French commune, of whatever size, has a mayor and one or more adjoints (assistant mayors). Towns of less than twenty-five hundred population have one adjoint only; those with from twenty-five hundred to ten thousand have two; the larger communes have one additional adjoint for every twenty-five thousand population; but no city may have more than twelve adjoints in all. An exception is made in the case of Lyons, which has nineteen.¹ The mayor and the adjoints are elected by the council for a term of four years; that is, for the council's own term. All go out of office together; there is no system of partially renewing the executive at stated periods. The election takes place at the first meeting of the new council in May. The meeting at which the choice is made is presided over by the senior councillor in attendance; the election takes place without any formal nominations and by secret ballot. On the first two ballots an absolute majority is necessary for election; thereafter a plurality is sufficient. In the event of a tie the older of two opposing candidates is declared elected.

How the
mayor and
the
assistant
mayors
(adjoints)
are chosen.

The mayor and adjoints must be selected from within the council's own ranks, but no administrative official of the national government is eligible to be chosen mayor or adjoint even though he be a member of the council.² There are no requirements as to previous municipal service, hence a councillor may be chosen mayor of the city immediately after his first election to the council, but of course this rarely happens. The adjoints are commonly men who have served one or more terms on the council and in the smaller cities the mayor is usually (though by no means always) chosen from among those who have served as adjoints. In the larger cities this is not so commonly the case.

Who are
eligible?

¹ Fourteen adjoints are distributed among the seven *arrondissements* of Lyons, two to each, and the remaining five are attached to the central *mairie*.

² This does not debar members of the Senate or the Chamber of Deputies, because they are not deemed to be administrative officers.

More often the mayor is some outstanding political leader whose party or bloc of parties has carried the city at the council elections. On being chosen mayor he does not resign his higher office if he holds one. Reëlections to the mayoralty are of frequent occurrence in the smaller communes, where one can sometimes find a mayor who has been in office for twenty or even for thirty years. In the larger municipalities the mayor is frequently given a second term, but third terms are not more common than in the cities of the United States. Adjoints are also reëlected frequently but the practice of reëlection is everywhere more common in the smaller communities than in the larger ones. Rural France is conservative while urban France is more radical and changes its mind more frequently.

Party in-
fluences.

In electing a mayor and adjoints the municipal council usually follows party lines—except in the smaller places where personal considerations and the tradition of *laissez-faire* combine to erase these lines somewhat. In the larger communes the choice is virtually determined by a preliminary conference or caucus of the majority coalition among the councillors. This coalition is formed prior to the elections, with the usual intrigues and manœuvres and pulling of wires. Sometimes the choice of the mayor is virtually determined by the council elections—it being understood that a designated councillor will be chosen mayor if his party bloc is fortunate enough to win at the polls. It is well to remember, in this connection, that the choice of a mayor does not require a majority vote of the council. A plurality is sufficient after the first two ballots.

Character
of the
officials
chosen.

Complaint is sometimes made that the mayor and adjoints of the French city do not represent the voters but the politicians. It is contended that direct election by the people, as in American cities, would result in the choice of a quite different set of men. Perhaps it would; there is no way of being sure without giving direct election a trial. Those who advocate a change in the method of selecting public officials usually predict that it will accomplish more than it ever does. The man who is able to procure his own election to the council, and manages to become a leader there, must have some qualities which would make him a good vote-getter in a direct city-wide election. And in any event the men selected as mayors and adjoints in the larger French cities have been of a fairly good type—if we judge them

by American standards. French mayors may be politicians, as the critics of the system allege, but they are not politicians of the ward or precinct type. Many of them go higher in departmental and national politics, becoming members of the general council, or the Chamber of Deputies, or the Senate, or even members of the ministry after they have served as mayors in their own communities. A very considerable proportion of the men who are active in French national politics have served as mayors on their way up the ladder. Indeed, it sometimes happens that a man goes to the Chamber of Deputies or the Senate while still retaining his post as executive head of the commune, for there is no legal or sentimental barrier to his doing this. All of which stands in contrast with our method of doing things in the United States. An American mayor who gets himself elected to Congress or to a governorship resigns his municipal office, for otherwise he would be drawing two salaries and not giving full value for either. The mayoralty of a large American city ought to be a good stepping-stone to higher office in the state or the nation but it has in fact proved to be a very poor one. The numbers of American mayors who have subsequently become prominent in national politics is astonishingly small.¹

When the council has chosen the mayor and adjoints its action must be communicated to the prefect. But the prefect's approval is not essential to complete the election. He has no authority to veto the council's choice. If, however, the election has been irregularly or unfairly conducted, or if the council has chosen anyone who is not eligible by law, the prefect may order an investigation. This investigation is conducted by the council of the prefecture, which, if it finds good reason, may declare the election void.² An appeal from its decision may be taken to the Council of State.

Contested
elections.

The French mayor and adjoints receive no salaries, but the municipal code permits the council to give the mayor an allow-

No salary
is paid
the mayor.

¹ See the discussion of this matter in the author's *Government of American Cities* (4th edition, New York, 1926), pp. 281-283.

² The council of the prefecture is made up of three members appointed by the national government. The prefect is an ex-officio member of the council but does not usually attend its sessions. Most of the council's functions have to do with the hearing of appeals against local tax assessments and the deciding of questions relating to the validity of local elections. For a further discussion of its organization and work see the author's *Governments of Europe* (New York, 1925), pp. 540-541.

ance to cover his official expenses.¹ This allowance must be included in the annual budget, and if it seems too large the prefect may reduce the item when the budget comes to him for approval. Councils have sometimes tried to give the mayor a salary under the guise of an allowance for official expenses, but the prefects have insisted that the amount must be moderate enough "to constitute a reimbursement, not a remuneration". The Council of State has upheld them in this attitude. On the other hand it has ruled that the prefect has no right to demand from the mayor an itemized statement of the expenses concerned—either before or after they have been incurred. The council votes the allowance in its annual budget and when the lump sum has been approved the mayor can spend it as he pleases. As for the adjoints, they do not even get an allowance.

In France the principle of unpaid service has been observed by the communes ever since the Revolution. Prior to that time all municipal officers drew salaries from the public revenues and for the most part they were grossly overpaid, in view of the small service which they rendered. The Revolution went to an extreme in suppressing this abuse, as it did in eliminating many others. It abolished the sinecures and promulgated the doctrine that men who were called upon to serve the commune in positions of honor ought to give their services free. That doctrine is strongly entrenched and difficult to change. But it operates to work injustice in the large communes where the mayor and adjoints have to give a large part of their time to public duties. Were it not that the allowance for expenses is large enough to cover the cost of entertaining distinguished visitors and providing for the other social amenities, no one but a man of wealth could afford to take the mayoralty in any important French city. And even with the reimbursement for out-of-pocket expenses, the mayor gets no pecuniary compensation for his own expenditure of time. It seems strange that this situation should exist in a country where democratic ideals are so warmly asserted.

Apparently, however, the absence of a regular salary does not deter candidates of all varieties from seeking the office. Rich men, poor men, and men of moderate means go after it with a

The historical reason for this.

Unpaid service has not operated, however, to discourage candidacies.

¹ A proposal to permit the paying of salaries to mayors and adjoints has been before the French parliament on several occasions, but it has never been adopted.

zest which is not a whit inferior to that of the payroll patriots in American cities. The prestige of the office is considerable and its powers, as will be seen in a moment, are by no means negligible. During the Second Empire the mayors were required to wear an elaborate uniform—a blue coat embroidered with silver braid, a white waistcoat, a hat with plumes, and a gilded sword. Since the establishment of the Third Republic this attire has become optional and is not customarily worn. Today on occasions of ceremony the mayor appears in long black coat and silk hat, with a tricolored scarf (*écharpe*) slung over his right shoulder and under the left arm.¹ He is the first citizen of the commune and as such is entitled to precedence at all local celebrations; unless his commune happens to be the capital (*chef lieu*) of a department or an *arrondissement*, in which case he is outranked by the prefect or the subprefect.

When the council elects a mayor and adjoints from among its own members, it thereby creates no vacancies in the body as the English council does when it chooses aldermen from its own ranks. The French mayor and the adjoints retain their seats in the council and no special elections are necessary as in England. The mayor and the adjoints vote in the council on all questions, their votes having exactly the same weight as other councillors.

The powers of the mayor and his adjoints cannot easily be set forth in general terms; for, although these powers are ostensibly the same in every one of the thirty-seven thousand communes, the enormous differences in the size of these villages, towns, and cities makes it essential that the same general powers shall be differently exercised. It stands to reason that the authority of the mayor counts for more in a city than in a village, no matter what the municipal code may say. Much depends also on the personality of the mayor. He may be a young man of ambition and initiative, besides being the recognized leader of the dominant party bloc in his commune. In that case

General
powers of
the mayor :

¹ During the Paris Exposition, twenty-five years ago, the national government invited all the mayors of France (37,000 of them) to visit the capital as its guests. They came and marched down the Champs d'Elysées eight abreast, passing in review before President Loubet like an army corps. It was an interesting and rather an impressive sight as I saw it, but it hugely amused the Parisian onlookers to see these thousands of local dignitaries strutting by, particularly the mayors from the rural communes wearing top hats of the vintage of 1850.

he may virtually become the political boss of the town, settling all important matters in his own way, with a majority of the councillors ready to back him up. His adjoints, in that case, may become mere satraps who take all their orders from the chief. On the other hand, the mayor may be a mild-mannered, highly respectable, old bourgeois or landowner who has been chosen as a compromise and who has no desire to dominate the politics of the town. In that case the adjoints have a great deal more independence and the council is free to reach its own decisions.

The municipal code, in general, provides that the mayor is "under the control of the council", but municipal codes do not always mean what they say.¹ To get any accurate idea of the mayor's initiative, authority, and influence in any French commune you must first take a look at *Monsieur le maire* himself, and see what manner of man he is. You must inquire also as to his relations with the majority element in his council and with the prefect. If he has both the council and the prefect on his side, you can hazard a fairly safe guess that he is the man who rules the city. But if he is on the outs with both, you can put him down as an official whose tether does not reach very far. What you will usually find, however, is a mayor who stands in neither of these situations; one who is neither a local boss nor a figurehead. The typical mayor of a French commune (if you can find a type among thirty-seven thousand) exercises neither the prætorian authority of his confrère in New York City, Boston, or Detroit, nor on the other hand is he divested of all but the perfunctory powers which appertain to the mayors of Liverpool, Manchester, or Leeds.

His dual
position:

1. As
executive
head of the
commune.

Appoint-
ments.

The first thing to remember, in trying to get a true picture of the French mayor's authority, is his dual position. On the one hand, he is the administrative head of the commune, charged with the supervision of its administrative affairs.² In this capacity he presides at all meetings of the council, makes an elaborate annual report to that body, and represents it in all legal proceedings. As the administrative head of the city he also appoints all the municipal officers from highest to lowest, with the exception of one or two—notably the town treasurer (*receveur municipal*), who is named by the prefect or by the

¹ Article 90.

² Article 90.

President of the Republic.¹ No confirmation of the mayor's appointments is necessary at the hands of the council, but in the case of police officials (as will be seen later) the approval of the prefect is required.² One may say, in fact, that for almost every important municipal appointment the mayor is directly and solely responsible. But in making his selections he does not have a free hand, for two reasons: in the first place, because the general laws prescribe certain basic qualifications for the higher positions, and in the second place because every commune of more than five thousand population is now (since 1919) required to recruit its subordinate public officials under civil service rules. Since the adoption of these civil service rules the mayor's discretion has been limited to the candidates in their order on the eligible list. Promotions, likewise, are now made under civil service regulations. The details of this merit system will be explained a little later.³

Prior to 1919 the mayor also had the power to suspend or to dismiss any municipal officer except those that had been appointed with the approval of the higher authorities. But suspensions and dismissals are now determined, in the first instance, by a disciplinary council in which the municipal employees are represented. The mayor still promulgates the order of suspension or dismissal, but only on recommendation of this council of discipline.

Dismissals.

As administrative head of the commune, the mayor likewise has general charge of its financial affairs. It is his duty to see that the revenues of the municipality are properly collected and conserved, and to make a report to the council on this matter before it proceeds to a consideration of the annual budget. His annual report, in fact, is largely devoted to the financial condition of the commune, showing receipts, expenditures, loans, indebtedness, and so on. It must tally with a report which is independently prepared by the municipal treasurer. This official, it will be remembered, is not appointed by the mayor. Copies of both reports go to the subprefect, the prefect, or the ministry

Finance.

The mayor's report.

¹ The choice is made from a list of three persons presented by the municipal council. When the annual municipal revenue is less than 300,000 francs the appointment is made by the prefect and not by the president (*La loi municipale*, section 156). If the revenue of the municipality is less than 100,000 francs the collector of taxes (*percepteur*) performs the functions of treasurer. (Law of December 26, 1908.)

² See *below*, p. 297.

³ See *below*, pp. 310-315.

of the interior for careful analysis by the financial experts of the prefecture or by the *Cour des Comptes* of Paris, according to the size of the annual expenditure. These authorities give special attention to such items as overdue taxes, outstanding bills, miscellaneous expenses, and other headings which usually conceal lax financing. They are relentless in following up irregularities. This scrutiny of local accounts by the higher authorities is one of the most commendable things in the French system of administrative centralization and one that we have greatly missed in the United States. Its absence has been responsible for enormous losses to the taxpayers of American cities.

How it is
dealt with.

When the financial statements are being considered by the council, the mayor does not preside. A chairman pro tempore is chosen by the council, and the mayor takes a seat on the floor. The council may spend several days discussing the mayor's report, item by item, and frequently calling on him for explanations. This gives the mayor's critics an excellent chance to find fault. The council may also summon the municipal treasurer to be present, or may call in other city officials. In general the intent of both the law and the practice is to have everybody familiar with the last year's financial operations before the next year's estimates are brought in. That is not what happens in most American cities. The mayor does not go before the council to defend his year's work. At best he makes a brief address, couched in general terms, and at once leaves the council chamber without any opportunity for cross-examination. The councilmen in an American city are supposed to study the auditor's report and get a grasp of the municipal finances in that way, but very few of them ever do it.

The budget.

After the mayor's report has been accepted, the council proceeds to a consideration of the budget for the ensuing fiscal year. This budget is also prepared by the mayor, who is assisted in this work by the adjoints and the heads of the various services who make ready the estimates. But the mayor alone is responsible for getting the budget adopted by the council. He takes the floor and introduces it with a formal address to the councillors; he answers questions and defends the various estimates. The budget, as the mayor prepares it, is divided into two sections, one comprising estimated receipts and the other dealing with the estimated expenditures. The section dealing with receipts

is subdivided into two parts, one including ordinary and the other extraordinary revenues.¹ In the case of the larger municipalities the section dealing with expenditures is parcelled into several further subdivisions comprising such heads as general expenses of administration, maintenance of municipal property, pensions and charity, police, fire protection, and so on. With respect to some of these items the mayor has a good deal of discretion, but many municipal expenditures are made obligatory by law. The municipal code enumerates no fewer than twenty appropriations which must be made in amounts deemed adequate by the higher authorities.² The list includes appropriations for the maintenance of municipal property, the preservation of municipal archives, the salaries of the municipal treasurer and some other officers, the pay and equipment of the police establishment, the pensions of local officials, the preparation of the voters' lists, the repair of local highways, and the remuneration of school teachers. A very large part of the budget is thus made up of items which must be voted by the council.³ If the council does not provide them, they will be inserted by the prefect. As respects the non-obligatory items the council has power to increase, decrease, insert, or strike out—but always with the stipulation that any increased expenditure which necessitates a special tax must be submitted for approval to the higher authorities. The council spends almost the whole of its spring session in discussing the mayor's report and the budget. In a small commune it finishes the job in a few daily sittings, but in the large cities the work may occupy six weeks or more. The mayor is on his feet explaining, defending, persuading, and protesting. It is his big task of the year. When it is done he sends the budget to the prefect and goes off on a holiday.

As the administrative head of his city the French mayor Property. exercises a supervisory jurisdiction over the management of all communal property, such as public buildings, lands, and invested funds. All matters of general policy in this field are, however,

¹The lines of demarcation between ordinary and extraordinary revenues are fixed in the municipal code, Articles 132-134. In general extraordinary expenditures are those which do not occur annually; ordinary expenditures are those which figure in the budget year after year.

²Article 136.

³For an excellent discussion see Charles Sol's new book on *Le budget municipal* (Corbeil, S. et O., 1925). This book covers every phase of the subject.

determined by the council, subject to the approval of the prefect. The mayor is also charged with many functions relating to the carrying out of the various conditions which may have been imposed upon the municipal authorities through their acceptance of gifts or legacies. In the actual oversight of sundry municipal works of construction, too, he has a variety of duties. He selects the engineers or architects who make the plans, he appoints the inspectors of construction, and he takes care that the authorized expenditure for the undertaking is not exceeded. Not a single franc can be paid out of the municipal treasury without the mayor's warrant, except in the case of obligatory appropriations. In such cases the municipal treasurer may be commanded by the prefect to make the payment.¹

Powers of
the mayor
with ref-
erence to
streets.

To the mayor is further committed the administrative supervision of all matters relating to minor streets and passages. It is his duty to supervise the construction and the repair of these, to see that private abutters do not encroach upon them, to make rules for the regulations of traffic along them, and in general to see that they are kept reasonably safe and convenient. Over all highways within the municipality, whether main or minor, the mayor also has various powers as the chief police official of the commune.

Police.

This brings us to the police power of the mayor. Perhaps the most important single power possessed by the mayor as chief executive officer of the French commune is that of organizing and controlling the municipal police. Throughout France, with only six exceptions, the organization of local police is entrusted, in the first instance, to the mayor of the commune.² But one should hasten to explain that this police jurisdiction of the mayor is exercised by him under the supervision of the prefect. The *commissaires de police*, or professional heads of the municipal police organizations, are always appointed by the President of

¹ *La loi municipale*, Article 152.

² These exceptions are Paris, Lyons, Marseilles, Toulon, La Seigne, and Nice. In Paris the police control is vested in the hands of a special national officer called the prefect of police (see *below*, pp. 327-328); in Lyons it is given to the regular prefect of the department of the Rhône (*La loi municipale*, Article 104); in Marseilles it has been committed to the prefect of the department of Bouches-du-Rhône (Law of March 8, 1908). The police of Toulon and La Seigne were transferred to the prefect of the Var in 1918 (Law of November 14, 1918) and the police of Nice were in 1920 transferred to the jurisdiction of the prefect of Alpes-Maritimes (Law of June 26, 1920).

the Republic; the gendarmes or ordinary patrolmen are selected by the minister of war at the mayor's request. This is because the gendarmes are exclusively chosen from men who have served in the army. The mayor himself appoints all other police officials, such as clerks, inspectors, *agents de police*, *sergeants de ville*, and in the rural communes, the *gardes champêtres*; but all such appointments must have the concurrence of the prefect. Subject to this approval the mayor likewise regulates the rates of pay, the duties, and the system of discipline; besides authorizing promotions and making suspensions or dismissals. All such matters, however, are now so fully covered by the general laws or by special decrees that the actual discretion which the mayor exercises is not of much account.¹

Scope
of this
authority.

In every city of more than forty thousand population the organization of the police is regulated by a special presidential decree applying to the individual city. In the smaller places the details of organization are not so definitely prescribed. At any rate there are no politics in the municipal police departments of France, or almost none, for the discipline is of military rigidity. Whenever any municipal police system shows signs of deteriorating the national government steps in and tones it up. It will even take the police away from the control of the local authorities altogether if the occasion so demands, and it has done this in several instances.²

The mayor has the right to issue *arrêtés* or ordinances, and every mayor issues a lot of them. Whenever the French parliament passes a law which has any relation to local affairs, or when the President of the Republic issues a decree in the same connection, the terms of the law or decree are transmitted to all the prefects. The prefects, in their turn, communicate the matter to the mayors (usually through the subprefects), and the mayors inform the people by having it posted on the local billboards. Thus the fatherly solicitude of the French government filters

Power
to issue
ordinances.

¹ At one time there was a good deal of controversy among the savants of political science as to whether the mayor exercised his police powers as a communal or as a national officer, but it is now pretty well agreed that it is as administrative head of the municipality and not as local agent of the central authorities that he exerts his control over local police affairs.

² On this general subject of police control in cities there is some good discussion in Raymond B. Fosdick's *European Police Systems* (New York, 1915), pp. 38-100. See also E. Bossart's *Code annoté de police municipale* (2nd edition, Angers, 1914), and A. Perrier's *Police municipale* (Paris, 1920).

its way from Paris to the thirty-seven thousand communes. The national government presses the button and all the wheels begin to revolve.

In addition to promulgating the orders which come from higher up, the mayor also prepares *arrêtés* embodying the decisions of the municipal council. According to the provisions of the municipal code he signs and promulgates all resolutions of the council. Finally, the mayor may also issue decrees on his own initiative in matters relating to the public safety, health, morals, or convenience; but always with the proviso that such decrees must not be inconsistent with the general laws, "Thus the mayor may prescribe the watering of roads, the removal of mud, snow, and filth, the sweeping of pavements, or prohibit the straying of dogs, the shaking of rugs out of windows, the excessive speed of motor cars, and what not. He personifies the public interest; he is the incarnation of communal solidarity. When he speaks, all individual interests must be silent, efface themselves, and obey."¹ He is the little father of his people, the ever-busy dispenser of a benevolent paternalism.

But there are checks upon the mayor's power to regulate the daily life and conduct of the citizens. There are limits to his police power. The *arrêtés* and *règlements* which fly so freely from his pen may be annulled on the protest of any citizen. Such protests are heard by the administrative courts, of which the highest is the Council of State. The procedure is simple and inexpensive. The citizen merely books a written complaint and the court assigns an investigator to look into it. There is no expense except a small filing-fee. No counsel need be employed. Decrees of the mayor are set aside if he is shown to have exceeded his authority or to have used it arbitrarily; that is, for *excès du pouvoir* or for a *détournement du pouvoir*.² The Council of State annuls many mayoral edicts every year; on the other hand, it sometimes upholds the mayor's action against the prefect's veto. The ordinary courts of France have no power to annul administrative decrees, but they can refuse to penalize the citizen who violates them and this, as a practical matter, is the same thing as annulment. Thus, if a citizen is arrested and

Checks
upon the
ordinance
power.

¹ Raymond Poincaré, *How France is Governed* (New York, 1914), p. 49.

² P. Dareste, *Les voies de recours contre les actes de la puissance publique* (Paris, 1914).

haled into court for loitering on the streets after midnight, in violation of the mayor's police regulations, the ordinary courts could refuse to convict if they deemed the rule unreasonable, in which case the police would be powerless; but the abrogation of the rule could only be ordered by the administrative courts. In general, however, things are not done that way. The citizens who objects to a rule does not raise the issue by violating it. He files a protest and asks for annulment through the established channels.

In spite of all these limitations, however, the ordinance power of the French mayor is considerable. It puts into his hands an authority which, in English and American cities, would not be committed to any administrative officer. In reality it is not an administrative power at all; it is a power to make laws in accordance with defined general principles, and not merely to apply the provisions of laws already made. Anglo-Saxon legislatures try to frame laws with such fullness as to make them cover every contingency that can arise. They leave very little to the imagination of the enforcing officers. They insist on "a government of laws, not of men". That is why the laws, in England and the United States, are so elaborate in their detailed provisions. It is inevitably so, because you cannot have a government of laws without elaborating the laws into great prolixity. Someone has figured that, counting federal laws, state laws, and local ordinances, we have about two million enactments in the United States. The building laws, the traffic laws, the public health laws,—they sometimes run into hundreds of printed pages. There are said to be about sixteen thousand ordinances in force in New York City alone. They are replete with provisions of almost microscopic dimensions. The French have no patience with this philosophy of lawmaking. Their lawmakers lay down a few general principles. The discussions in parliament or in the municipal council relate to these principles. The details are delegated to administrative officers to be worked out. The president, the ministers, the prefects, the subprefects, and the mayors all take their turn at filling in details and applying the general principles to actual conditions. This gives to the French legal system a flexibility which Anglo-American jurisprudence does not possess.

Summary.

Let us now turn to the powers of the mayor in his other

2. The mayor as agent of the national government.

capacity—not as the head of the commune but as the agent of the central government. The distinction between these two rôles is not always clear, even to the mayor himself. As the agent of the national government, however, he is free from control by the city council; his responsibility is to the higher authorities alone, particularly to the prefect of the department in which his municipality is situated. In this capacity he has been intrusted by the national government with a long list of duties, some of them very important. The performance of these delegated functions is, indeed, the mayor's principal responsibility and takes the greater portion of his time. More than half the clerical work done at the *mairie* is work for the national government.

A contrast with American practice.

The contrast between French and American practice in this respect deserves to be noted. In the United States, when the national government assumes any function (such as the enforcement of nation-wide prohibition, or the prevention of monopolies, or the taking of a census), the work is customarily done by federal officers. When the state legislature provides for the inspection of factories, or the prevention of epidemics, or the licensing of automobiles, the work is generally intrusted to state officials, appointed and paid by the state. It is not the usual practice of American lawmakers to pass some law and then to throw upon the municipal authorities the whole duty of carrying its provisions into effect. But in France that is what ordinarily happens. The department, the *arrondissement*, and the commune are treated as agencies for doing the work of the national government, and the mayor of the commune (being the lowest official in the series) is the one upon whom the ultimate responsibility falls. Of course this plan of administrative devolution has some advantages. It reduces the number of officials who have to be employed and paid by the national government. It brings the national and local governments into intimate and continuous relation. It exalts the prestige of the mayors by making them emissaries of the Republic. On the other hand, it throws an enormous amount of work and a great deal of expense upon the communes and incidentally paves the way for centralized control over matters which are of a purely local character.

Among the more important functions which are devolved upon the French mayor as the agent of the central government is that of handling the perpetual census (*état civil*). The French do not

content themselves, as we do, with the taking of a census once in ten years. Every commune is required to maintain an inventory of its inhabitants, and this register is kept accurate day by day. All births, marriages, and deaths, all migrations into the commune and out of it—everything affecting the local population must be promptly recorded. The authorities know who's who in France; they have complete data concerning every inhabitant—when and where he was born, who his parents were, what education he has had, what taxes he pays, whether he has ever been convicted in court, whether he has rendered his military service, and so on. You can always get the complete biography of any Frenchman by going to the *mairie* of his commune. When a child is born the mayor issues an *acte de naissance*, a formal certificate of the youngster's nativity. When the child applies for admission to an elementary school, he must produce this certificate. When he desires to marry, he must go to the *mairie* with this precious document in hand and arrange for a civil marriage, quite distinct from the church ceremony. And when he dies the officials must see his birth certificate before they will issue his burial permit! In truth the system of the *état civil* gives the mayor's office a lot of work to do, but it is an admirable system and useful in a multitude of ways.¹ It affords data for the annual recruit list, for the voters' list, for tax estimates, for all sorts of things. There is no guesswork in France where vital statistics are concerned.

The mayor, again, is the local agent of the war department. He prepares each year the *état militaire*, including the list of young men who have reached the age at which they may be called to do military service. This list, after due publication and revision, he sends to the prefect, who transmits it to the ministry of war in Paris. Claims for postponement of service are also forwarded through the mayor's office. The mayor likewise supervises the compilation of various rosters showing the number of trained and untrained men in the commune capable of bearing arms, together with lists of motor cars and other vehicles, horses, carrier pigeons,—everything likely to be requisitioned in time of war.

When war breaks out the work of the *mairie* is naturally in-

The mayor's duties in connection with the *état civil*.

The mayor as the agent of the war ministry.

¹ See J. Monfren's *Manuel pratique de l'état civil* (4th edition, Paris, 1914), and A. de Tallandier's *Manuel formulaire des officiers de l'état civil* (6th edition, Paris, 1920).

Municipal
functions
in war
time.

creased. It then becomes a local focus for everything connected with the mobilization. And after the mobilization has been completed, the mayor's office has much to do with war work.¹ Americans who were in France during the great crusade of 1917-1918 do not need to be reminded of the way in which the mayor and his staff in every little commune tried to facilitate the billeting of troops, the purchase of food and supplies, the location of training camps, the requisitioning of transport, and the work of the military police. The thirty-seven thousand mayors of France functioned during the war as so many agents of the allied armies. And since the war the mayors of those communes which lie within the invaded areas have been loaded with all sorts of duties connected with the work of repatriation and reconstruction.

Other
functions
of the
mayor.

The mayor, as has been said, is responsible for preparing the voters' lists which are used at both national and local elections. He is the registrar of voters and the chief election officer. He is ex officio a member of the local school commission, which is not a municipal but a departmental body. He is presiding officer of the local poor relief bureau. Finally, as the municipal code provides, he is "charged with such other special functions as may be devolved upon him by the laws".² Year after year the laws have been adding to the number of such duties.

Multifari-
ous nature
of his
duties.

Thus the French mayor, as one can readily imagine, is a busy man. Somebody has estimated that he has about six hundred official acts to perform each year, every one of them to be done in a prescribed way and at a specified time. This estimate, moreover, does not include his work of issuing *arrêtés*, supervising public property, attending meetings of the council and of the various commissions, preparing his budget, making reports, and representing the commune on occasions of ceremony. "He is burdened with innumerable and absorbing tasks", one writer puts it, and the burden is steadily growing. All this service, be it borne in mind, the mayor renders without salary.

He dele-
gates much
to his sub-
ordinates.

Of course the mayor does not personally attend to it all. He delegates a large amount of routine to his adjoints, to the secre-

¹ On this matter see Maurice Félix, *Les municipalités pendant la guerre* (Paris, 1917), and the same author's *Fonctionnement des conseils municipaux pendant la guerre* (Paris, 1917). An older book, which still retains value, is Paul Dislère's *Les devoirs des maires en cas de mobilisation générale* (2nd edition, Paris, 1912).

² Article 92.

tary of the mairie, and to the other administrative officials of the commune. The municipal code says that he "may" delegate functions to his adjoints—not that he "must" do so. In distributing the work he is free to follow his own judgment, but usage has marked out lines which the mayor usually follows. And in any case, while the work may be distributed the responsibility cannot. The mayor is accountable for all that his subordinates do. When the prefect has any fault to find, it is the mayor that he communicates with. The mayor must work with assistants whom he does not appoint (for the council elects the adjoints) and whom he cannot remove. He must work in harmony with his council and yet satisfy the prefect. He must try to give his city an economical, efficient, administration and yet keep peace in the ranks of his own political supporters. To succeed in all this, he must be administrator, diplomat, orator, politician—all rolled into one.

CHAPTER XVII

THE MUNICIPAL SERVICES

Two
general
plans of
handling
adminis-
trative
work :

1. The
American
plan.

Broadly speaking there are two methods of organizing and controlling a city's administrative services. The first is the method commonly used in the United States. It is based upon the principle of division of powers. Each administrative department or service is placed under the direct control of some official or board which is appointed by the mayor or the city manager as the chief executive of the municipality. These officials and boards are responsible to the chief executive alone; they cannot be removed from office by vote of the city council nor can the council control their actions—except in so far as it is able to do this in a roundabout way through its control of the appropriations. This orthodox American plan is based upon the conviction that good governmental practice demands a clear distinction between the policy-forming and the policy-executing branches of the government in order that the one may serve as a check upon the other.

2. The
English
plan.

The second plan, altogether different both in its theory and its working, is the one pursued by English cities. In these, as has been seen, there is no separation of powers, no clear differentiation between lawmaking and administration. The city council is the controlling authority in both. It appoints a committee for each service or department. It appoints, and may at any time remove, the chief officials of each service or department. It controls both the framing and the execution of municipal policy in all matters. All the officials of administration are responsible to it, and to it alone.

The
French
practice
stands
midway
between
them.

Between these two types of administrative organization the French system stands about midway, although it leans somewhat to the English side. It does not clearly recognize the principle of separation of powers, as in the American plan, nor does it concede the virtual supremacy of the city council as in the English municipalities. It gives the council the ultimate control by bestowing upon this body the right to choose the mayor, the

adjoints, and the other chief officers of the commune. Therein it departs from the American practice. But it does not give the council power to remove any officials or employees of the municipality, and therein it differs from the English system. It departs from the English model, again, in that the mayor is given certain powers which he exercises on his own responsibility, without necessarily deferring to the wishes of the council, but subject in most instances to the supervision of the higher authorities. In spite of all this, however, the French city council possesses a much larger and more direct share in administration than does the "legislative organ" of most American municipalities. For no matter what the laws may provide, the fact remains that the council chooses the mayor and the adjoints—and it does not choose men who are likely to prove rebellious. The mayor, the adjoints, and a majority of the councillors belong to the same party group or coalition. This political affiliation holds them, in most cases, to a common course.

The French municipal code provides that the mayor exercises his formal powers "subject to the control of the council and under the supervision of the higher authorities".¹ In the larger communes, where he has several adjoints to help him, he distributes the work of supervising the various services among them. This distribution of functions is wholly within the discretion of the mayor; he may give an adjoint much, or little, or nothing at all to do. But he is ordinarily guided by the plan that has been established during previous administrations. One adjoint is given general charge of streets, another of sanitation, another of water supply, another of fire protection, and so on. As a rule the mayor keeps the police department for himself, and it is virtually essential that he do this because the municipal code confers certain police powers on him alone and does not permit him to delegate these to anyone else. For example, the mayor alone can promulgate police ordinances. The mayor cannot remove an adjoint from office but he can take away his functions, which is tantamount to removal. In general, however, the mayor and adjoints get along very well together. They are chosen by the same council, at the same time, and for the same term of four years. They represent the same party groups in the coun-

What the
adjoints
do.

¹ Article 90. "Sous le contrôle du conseil municipal et la surveillance de l'administration supérieure."

cil—not always, but usually. They are equally interested in making the administration a success. Thus responsibility is concentrated and work divided.

They are not heads of municipal departments in the American sense.

But when the mayor distributes general functions among the adjoints this does not mean that the latter actually serve as the heads of the services or departments which have been assigned to them. The adjoint receives no salary; he has his own livelihood to earn; he cannot give all his time, or even a large part of it, to the city's work. It is his function to keep an eye on some branch of administration, to know in a general way what is going on there, and to advise the mayor or the council when called upon. He is in much the same position as the chairman of a standing committee in an English borough council so far as his relation to the actual work is concerned. Some adjoints are very active and give a good deal of time to the performance of their functions; others are politicians who have merely secured designation as adjoint for the honor that is involved. In any event the adjoint is not much more than a titular head; the real head is the *chef du service* or permanent official, whose functions will be explained a little later in these pages.

The council's committees and their administrative work.

It has already been mentioned that the municipal council maintains various committees (*commissions*). There is a committee for each important branch of local administration. But these committees have advisory functions only; they do not take any actual share in the work of municipal administration, as English committees do. They hold their meetings during the intervals between sessions of the council, at the call of the mayor, who is ex-officio chairman of all the committees. They present their reports at meetings of the council, through a *rapporteur* who is named by each committee for the purpose, and when their reports are adopted they have nothing further to do with the matters in hand. A committee report may give rise to a lively discussion in the council and may form the basis of a resolution expressing the council's decision on any matter within its province. In this way the committee may exert an influence upon administrative policy, but in no case can it directly give instructions to the permanent officials, as some committees do in England.¹

¹ The Watch Committee and the Education Committee, for example. See above, p. 141.

Ostensibly, then, the administrative work is supervised in French cities by amateurs, by unpaid laymen. A mayor and one or more adjoints chosen by the council are in control of it. Committees of the council advise them. But in reality the whole municipal service is dominated by the permanent, expert officials of the city. Every service has a professional officer who is its head in everything but name. This *chef du service* is the man who really possesses the determining voice in all matters of technique and routine. Although an adjoint is vested with the oversight of street administration, it is the chief engineer of the highway bureau who determines how a street shall be built, paved, and maintained. Adjoints come and go, but the professionals who do the work stay on. It is they who give continuity to French municipal administration. English and French cities are alike, therefore, in that both have the externals of administration by amateurs while both are, in fact, under the domination of professionals. The French profess strong allegiance to the egalitarian principle, the equal right of all men to hold public office. But they do not put this doctrine into operation as respects the administrative services of either the nation or the city. They insist that everyone who aspires to do public work of a technical character shall have special qualifications for doing it.

Expert and
layman.

This hiatus between the law and facts is one of the things that makes all branches of French government difficult for Americans to understand. In an American city the titular head of a department is the real head,—save in cases where the mayor places a figurehead in the position and exercises the power himself, as he occasionally does. But in France the officer who bears the title is not necessarily, or even usually, the one who does the work. The titles go to men who are elected by the people or by the representatives of the people, while the work is done by skilled experts who are appointed under civil service rules and promoted on a basis of merit. Under this plan the administration of the city is democratic to all outward appearance, but is strictly bureaucratic as respects its actual operations. Democracy is combined with efficiency in an adroit and ingenuous way. Mayors and adjoints prefigure the one, while permanent officials supply the other.

The
titular
heads and
the real
heads.

Among the permanent officials of the French commune the most

The chief officials :

The *secrétaire*.

His functions.

important is the *secrétaire de mairie* or town clerk. Every commune in France, from smallest to largest, has a municipal secretary. In the little villages the post is usually regarded as one of the perquisites of the local schoolmaster, who does the work after school hours. In the larger municipalities it is a full-time job, well paid and given only to men of special competence for the work. The *secrétaire* is head of the clerical staff at the city hall and the keeper of all records and archives. He prepares *arrêtés* for the mayor to sign, he drafts communications to sub-prefects and prefects, he relieves the mayor of much routine. In the course of time he becomes a repository of information concerning all points of procedure and everybody turns to him for advice. "He is the modest auxiliary", says Martineau, "who studies earnestly all local questions, prepares all reports, and finds solutions for all local problems; the man who is in constant touch with the public, who represents the municipality before outside bodies, and who rides fearlessly into the labyrinth of law, decrees, circulars, and instructions;—the citizen, in a word, who alone represents and maintains local traditions in a day when universal suffrage has supplanted the erstwhile masters of the city by the new-elect, to whom sound counsel and guidance are a necessity."¹

Importance of his work.

The *secrétaire* is the local factotum,—what the town clerk is to the mayors of England. He is even more than that, for his duties are even more numerous, more varied, and more difficult because of the large amount of work which the central government throws upon the thirty-seven thousand mairies of France. To a very large degree the smoothness of municipal administration hinges upon the ability, accuracy, and tact of this important officer and upon the discipline which he is able to maintain among the staff at the city hall.

His staff.

This staff is usually divided into four bureaus, each with its chief and deputy-chief.² The chief and the deputy are chosen by promotion from the lower ranks of the service; the clerks and other subordinates are recruited by civil service competition. Technically they are not responsible to the mayor, nor to the

¹ R. Martineau, *Les secrétaires de mairie* (Paris, 1906), p. 11. See also G. Dubarry, *Le secrétaire de mairie* (19th edition, Paris, 1924), and E. Bourgueil, *Le vade-mecum de l'instituteur secrétaire de mairie* (Paris, 1920).

² These bureaus are (a) secrétariat, (b) bureau de l'état civil, (c) bureau militaire, and (d) bureau de police.

secretary, but from the nature of things the secretary is their real chief. It has been said, and there is much truth to it, that a French city could conceivably get along without a mayor, but never without a secretary. He is the adjutant of the commanding officer. In the larger communes he is selected by the President of the Republic from a list of three names submitted by the municipal council. In reality the selection is made by the minister of the interior, whose advice in such matters the President always follows. In the smaller communes the secretary is named by the mayor, but the appointment is subject to the prefect's approval. Political considerations do not usually have much to do with the choice in any case, for the position is one that no ordinary politician could fill acceptably. The usual course is to promote someone who has served on the secretary's staff.

Another important official is the treasurer (*receveur*).¹ In municipalities where the annual revenues amount to more than 300,000 francs the treasurer is appointed by the President of the Republic on the nomination of the minister of finance; but where the revenues are less than this amount the appointment is made by the prefect. In either case the choice must be made from among three names submitted by the municipal council. The office of treasurer may be combined with that of tax collector (*percepteur*) in the smaller communes and that is the usual practice, but in the larger cities the two positions are kept separate. The treasurer, who must be paid and provided with quarters by the municipality, is the custodian of the communal funds and the general head of the city's department of finance. Since, however, the primary responsibility for municipal payments rests with the mayor, the treasurer may not refuse to make a disbursement in response to a mayor's warrant unless there be no appropriation for the purpose or no funds on hand, or unless the proper vouchers be not attached to the warrant. The treasurer, like the mayor, presents an annual report to the municipal council, which the council examines before taking up the budget. The treasurer's report must also be submitted to the national receiver of finances; and if the income of the municipality exceeds a certain amount it must also be laid before the national court of accounts (*Cour des Comptes*), which has

The
treasurer.

¹ M. Moreaux, *Le receveur municipal* (Paris, 1911).

auditing jurisdiction over almost the whole field of public finance.

The chief
commissaire of
police.

A third officer invested with large discretionary power in the French commune is the commissioner of police.¹ He is appointed by the President of the Republic (in all communes of more than five thousand population) but is immediately subject to the mayor's supervision. His salary is paid from the municipal treasury. In France, as in the United States, the courts have held that the police are not municipal officers but officers of the state, engaged in the performance of state functions. For this reason the municipal councils are required to vote whatever appropriations the chief commissioner asks for, and if it does not do so the higher authorities can insert the necessary sum in the municipal budget. The large municipalities have several police commissioners, one for every ten thousand inhabitants, with a *commissaire central* in general charge.²

Other
officials.

It would take too long to go through the entire list of permanent officials in the larger French cities, indicating the position and powers of each, even in a general way. Streets, public buildings, parks, fire protection, sanitation, water supply, lighting, health,—all have their *chefs de service* and their deputy chiefs. In most cases they have been promoted from below and the laws now definitely prescribe the procedure by which promotions must be made. Municipal administration offers a career in France, with reasonable remuneration and security of tenure. Every head of a service or bureau (with the exceptions already noted) is named to his post by the mayor, but the mayor's action is now very largely a matter of form. The civil service regulations govern the appointments.

The new
civil
service
system.

These civil service regulations are of recent origin in French cities. Prior to 1919 the mayor had virtually a free hand in making appointments and promotions, except in a few of the largest cities where civil service rules had been established by action of the municipal council. By the terms of the municipal code he was authorized "to appoint all the employees of the commune for whom the laws, decrees, and ordinances do not prescribe a special method of appointment".³ The mayor's

¹ For a full account of his position, powers, and duties see E. F. Guyon, *L'organisation de la police en France* (Paris, 1923).

² See also above, p. 297.

³ Article 88.

appointments under this system were often strongly tinged with politics or with personal favoritism and there was much complaint on the part of the employees. Accordingly, in 1919, the French parliament enacted a law requiring the establishment of civil service competitions in all communes having more than five thousand inhabitants. In brief, this law provides that each municipal council, within six months, shall draw up a set of regulations for the commune and submit these regulations to the prefect for his approval. If the council fails to submit a satisfactory set of regulations within the time specified, the prefect is empowered to establish by decree the standard code of civil service regulations (*règlement-type*) prepared by the Council of State.¹ Most of the communes have followed this standard code, either verbatim or with some minor changes. It may be well, therefore, to give a summary of it.

All employees in the various municipal services, unless their appointment has been otherwise provided for by law or decree, must be chosen by open competition. But the council may, with the prefect's approval, exempt certain positions from competition if it appears that they cannot well be filled in that way. And the law provides that competitions shall not be held for the employment of ordinary manual laborers. The terms of the competition are somewhat different for each branch of the service and must be posted at the mairie. To be admitted to the competition, candidates must be French citizens, at least eighteen years of age. No male candidate over twenty-one years of age is eligible unless he has satisfied his obligation of military training. The municipal council determines what branches of the service shall be open to women. Its scope.

The mayor fixes the dates for the various competitions and passes on all questions of eligibility. He may limit the total number of candidates to the number of vacancies likely to occur within two years. The examining board of five members consists of the mayor (or an adjoint designated by him) as chairman, two members named by the municipal council, the *secrétaire de mairie*, and either (a) the chief of the service for which the competition is held, or (b) a high employee of this service designated by the mayor. This board prepares the tests, conducts them, and by majority vote decides the rank of the various candidates. It The examining boards.

¹ *Règlement-type établi par le Conseil d'État, le 10 mars 1920.*

then arranges the names of the candidates according to their rank and sends a copy of this list to the prefect, who publishes it in his official record. Names are then taken from the list in regular order as vacancies occur. In default of an eligible list in his own commune the mayor may appoint someone from the eligible list of another city. In all cases the appointment is probationary for a period of six months, at the end of which time the *chef de service* determines whether it shall then be made permanent.

Nature of
the tests.

The general regulations do not prescribe the form that the competitions shall take, whether written, oral, or both. Each examining board determines this for itself and adapts the examination to the positions that are to be filled. The procedure is much like that followed in American cities under civil service rules. The general qualifications of the candidates are looked into; their training and experience are given weight; there are written or oral examinations or both; the candidates are then given their *ordre de classement* by vote of the board. The relative weight given to the various parts of the test is determined by the character of the service (whether clerical, accounting, engineering, legal, etc.) for which the competition is being held. But in all cases a great deal of stress is laid on the general education of the candidate.

Promotions.

The new regulations deal with promotions as well as with appointments. They provide that promotions shall take place, in the higher grades of each service, from the grade immediately below—for example, that chief inspectors shall be chosen from deputy inspectors. Every year, prior to July first, a promotion board composed of the mayor (or an adjoint designated by him), two municipal councillors named by the council, the *secrétaire de mairie*, and the heads of the various municipal services, is constituted for the purpose of making a *tableau d'avancement*. This roster is compiled upon a basis in which seniority counts for two thirds and the board's own judgment for one third. All promotions and all increases of salary are ordered by the mayor in strict accordance with the list as thus prepared. If the municipal council decides that the number of employees is not large enough for the preparation of a formal promotion list in this way, it may instruct the promotion board to submit, each year, a list of individual recommendations for increases in rank

or in salary. Promotions to certain positions in each service may also be decided either by competition or by an inspection of individual records, as the council may decide.

Finally, the regulations cover the matter of dismissals, suspensions, and discipline. The mayor, on recommendation of the *chef de service*, may admonish any subordinate official or employee and cause a record of such admonition to be made. But all disciplinary measures of a more severe character, including reductions in pay or grade, suspensions, or dismissals, can only be taken after an inquiry by a council of discipline made up of the mayor (or a designated adjoint), four members named by the municipal council, and two municipal employees of the same service or the same rank as the employee who is under charges. These two employees on the council of discipline are elected by their fellow employees. But no employee whose own case is being heard can sit at the inquiry. In case of grave delinquency the mayor may suspend an employee without waiting for the council of discipline to pass on the matter, but if the suspension be not upheld by the latter the employee is reinstated and gets his pay for the interval of suspension. In all proceedings before the council of discipline the accused employee is permitted to be heard in his own defence, to be assisted by a legal adviser, and to have his witnesses summoned.

Discipline
and dis-
missals.

The system established by the foregoing regulations is comprehensive, equitable to all concerned, and relatively simple to administer. Much will depend, however, on the attitude of mayors and councils, for they control a majority on the examining board and on the board which administers discipline. Thus far they appear to be showing the right spirit toward the regulations. The chief merit of the French system is its provision for the making of promotions. This is where American civil service laws have been most notably deficient. No system of competitive appointment will ever avail to draw good men into the city's administrative service so long as promotions and increases of pay are left to be decided by political influence and personal favoritism. The public service cannot be made a career until promotions as well as appointments are placed on a merit basis. In American cities this has not yet been done to any considerable extent. By putting all promotions on a non-political basis the French cities have gone ahead of us.

Merits
of the plan.

A comparison with the American system.

There is another difference. In the cities of the United States the whole tendency has been to make civil service tests specific and practical. If a competition is being held for clerkships in the city auditor's office, the tests are definitely related to the routine which a clerk will be expected to handle. They seek to find out, from among a roomful of candidates, which ones will make the best clerks—that and nothing more. The civil service system, as it is generally administered in American cities, does not give much heed to the possibility that these clerks will be looking for promotion after a while. In other words, our system has been more concerned with the present capacity than with the future promise of the successful candidates. It has placed too little stress upon the breadth of a candidate's education in matters unrelated to the position which he seeks to fill. In France they are doing somewhat differently. The question there is not merely whether the candidate has shown himself competent to be a clerk, but whether he looks like good material for a higher post when the opportunity comes. The city halls of the United States are full of men, now past the meridian of life, who are drudging away on tax lists and water bills, adding columns of figures hour after hour, or entering the names of voters in a book. There, and at such tasks, they seem destined to remain until the end of their days. They are routineers who can perform their mechanical tasks acceptably, but they have for the most part neither the mental capacity nor the general education that would warrant their advancement to work of greater responsibility.¹

Summary.

In summary, then, it can fairly be said that the cities of the French Republic are administered by a corps of permanent officials acting under a broad range of authority committed to them by the mayors, adjoints, and council. Though apparently vested in the hands of laymen, the administration is distinctly professional. The French have maintained the forms of an elective, non-bureaucratic municipal government, but they have secured efficiency by making all branches of the administrative service permanent and attractive to competent men. The spoils system

¹ It is only fair to add, however, that the administration of the civil service rules has been notably improved in many American cities during recent years. Greater weight is now being given to general education and prior experience. See the discussion of this matter in the author's *Government of American Cities* (4th edition, New York, 1925).

has not been unknown in France but it has had no such vogue as in America. The new civil service regulations, if fairly administered, seem likely to work more satisfactorily than the rules with which Americans have become familiar. The paid officials of the city, taking them from highest to lowest, average a better standard in France than in the United States, despite the fact that their scale of remuneration is relatively much lower.

One reason for this may be found in the greater social prestige that attaches to such work in France. Another arises from the greater security of tenure. The young American, if he is of the proper stuff, does not start out to make his career at a desk in the city hall. He knows that there is more opportunity, more chance of a fortune, more independence, and more scope for his initiative in some private vocation. He knows that there is more risk of flat failure also, but this does not usually dampen his youthful optimism. But the young Frenchman is inclined to look at the future somewhat differently. Give him the assurance of a permanent position with a moderate salary, a white collar job with some social prestige attached to it, the hope of slow but sure advancement, and the minimum of risk—offer him this and he will usually take it in preference to the lottery of a business or professional career. Hence the French public service is much less disadvantageously situated than ours when it comes to recruiting the lower ranks. In America, too often, a man will not listen to the call of the city until after he has had his try at private business and has failed to make it go.

The municipal code does not require that pensions shall be paid to all municipal officers and employees after a certain period of service, but many of the communes have established pension systems. The detailed arrangements vary from place to place. In municipalities where no regular system has been put into operation the officials and employees come under the general law of 1910 relating to pensions for workers, and the contributions are made from the municipal treasury to the national pension funds in accordance with the provisions of this law. Some officials and employees, moreover, although paid by the commune, are rated as national officers and in all such cases the payment of pensions, at rates fixed by the national laws, is an obligatory charge on the budget of the municipality.

Pensions.

During the years since the close of the World War there has

Rates of
pay.

been much complaint that the salaries paid to the various municipal functionaries are much too low. There have been increases since 1918, of course, but the salaries have not kept pace with the increased costs of living. In times of rising prices it is the salaried class that usually suffers most. At any rate the number of applicants for positions in the public service has undergone a marked diminution in France during the past half dozen years, and the *chefs de service* are loudly complaining that capable men cannot be obtained at the existing rates of pay. If this be the case it is an unfortunate situation and will tend to lower the standards of efficiency which French cities have been able to maintain in their administrative departments.

The legal
responsi-
bility of
the com-
mune and
its effect
on admin-
istration.

The relatively high efficiency of the French municipal service, taking it as a whole, is possibly due in some measure to the legal responsibility for the actions of its officials and employees which the municipality is compelled to bear in France, but which it largely escapes in America. The French city is responsible in all cases for damages arising out of the negligence or malfeasance of its officials and employees in the course of their regular functions. It cannot be pleaded in France, as in the United States, that "the city is the agent of the state and the state can do no wrong." If a gendarme or a fireman (*sapeur-pompier*) commits a tort, (*i.e.* a legal wrong to the person or property of the citizen), his employer, the city, is liable therefor. The action for redress must be brought in accordance with a special procedure; but the redress is usually prompt and adequate in cases where the citizen is entitled to it. In the United States, as every lawyer knows, the city is not liable for damages caused by the actions of its police, firemen, health officers, and others who are exercising "governmental" functions. Liability is an incentive to care. When the authorities realize that the negligence of an employee may cost the city a large sum, they are obviously more careful in the men whom they take on.

Syndicated
services
in the
small
communes.

A word should be added concerning the provision for syndicated services in the smaller communes. The municipal code of 1884 contemplated that each commune, however small, would provide its own hospital, abattoir, library, fire brigade, high school, and so forth; but it was soon found that this could not well be done. Consequently, in 1890 a series of amendments were added to the code providing for the syndicating of local administration in the

case of "intercommunal utilities".¹ Whenever the municipal councils of two or more communes in the same department desire to make joint provision for some public service, they submit their plan to the prefect and he, with the advice of the general council, may authorize them to proceed. Thereupon a syndicate of communes is created for the specific purpose and is invested with the status of a municipal corporation. The joint service or services are managed by a committee made up of two delegates named by the municipal councils in each of the participating communes. The committee chooses its own presiding officer and also a treasurer, the latter being the treasurer of the commune in which the committee holds its meetings. It prepares a budget for the joint service or services, issues warrants for the necessary revenue, approves the accounts, and supervises the administration of the hospital, school, fire station, sewer system, water supply, or whatever the syndicated service may be. The cost is apportioned among the communes involved. The foregoing provisions have been utilized by large numbers of the communes during the past thirty-five years. In many of the smaller ones virtually all the important services have been syndicated and only the minor ones remain under the jurisdiction of the local authorities.

¹ Articles 169-178. Various modifications were made by a law of November 13, 1917. The changes are noted in Morgand's Commentary, vol. ii, pp. 749 ff.

CHAPTER XVIII

THE GOVERNMENT OF PARIS

The special situation of national capitals.

The provisions of the municipal code do not apply to Paris. The French capital is governed by special laws which long antedate the framing of that enactment. It is hardly by accident that in nearly all great countries the national capital is placed under a special dispensation and is not permitted to have the same form of municipal government as the other cities. London, as we have seen, is governed as a county. Berlin, as will be explained later, is a municipal federalism, a city of cities. Washington, as every American knows, is governed as a federal district. It has no mayor, aldermen, councillors, or city manager, but is ruled by an appointive commission of three members under the supervision of Congress. Paris is administered as a department, the Department of the Seine, one of the eighty-nine departments of France.¹

Reasons in each case.

For this habit of placing the nation's capital under a *régime exceptionnel* there are various reasons. London was made a county because it had become too big to be governed as a borough. Washington was deprived of its old municipal system in 1870 because the elective officers were not functioning satisfactorily, and would not do things as Congress desired to have them done. Greater Berlin was federated in 1919 because there were too many independent local authorities operating in the same general area and thus preventing a proper articulation of the various public services. Paris has been under a special dispensa-

¹The best book on the government of Paris is Eugène Raïga and Maurice Félix, *Le régime administratif et financier du département de la Seine et de la ville de Paris* (Paris, 1922). This volume of nearly eight hundred pages, by two well-known municipal functionaries, covers all phases of Paris government in a workmanlike manner. There is a foreword of appreciation by Professor H. Berthélemy. An older book by E. Maître, entitled *L'organisation municipale de Paris* (Paris, 1909), is still of sufficient value to be noted. Mention should also be made of a handbook or manual entitled *Le conseil municipal* which is issued annually by the Parisian journal *La Cité*. It contains data concerning the personnel of government and administration in the French capital.

tion for a longer period than any of the other capitals, and for an altogether different reason. It was neither size nor disintegration nor administrative inefficiency that brought the City of Light under the tutelage of the national authorities. It was the erratic behavior of her people in critical times—their readiness to start trouble when given the opportunity.

Paris, as a city, has had a long and spirited history. We do not know who founded the place, or when. The Romans, when they invaded Gaul some time before the beginning of the Christian era, found a thriving town located on an island in the Seine. This site had been chosen by the Gallic townsmen because it could be easily defended, a very important consideration in early days. The Roman leaders, for the same reason, occupied the place and made it a headquarters. Paris grew considerably under Roman protection but eventually it was abandoned when the legions were withdrawn from the provinces. And after the withdrawal it suffered the fate of the other French towns, being frequently attacked and pillaged by marauding bands from all points of the compass. Through the Middle Ages, however, the place struggled on and managed to grow. It spread from the island to both shores of the Seine, but more especially to the south shore where a wall was constructed to protect the settlement. With the decline of feudalism and the rise of the royal power it became not only the capital but the metropolis of France and in 1500 had a population of about two hundred and fifty thousand. This was the largest population of any European city at that time. Thereafter the growth of Paris was rapid, especially during the long reign of Louis XIV (1663-1715). Louis greatly improved and modernized the city by enlarging the old streets, building quays along the water front, and completing various public edifices such as the Louvre and the Tuileries. But he transferred his capital to Versailles, some distance outside, and spent enormous sums on palaces there. The outer city walls were demolished, being no longer needed for defence. This enabled the expansion of Paris to go forward more easily. The population passed seven hundred thousand about 1750 but was soon overtaken by London, which grew during the eighteenth century at an unprecedented rate.

The Revolution of 1789 gave Paris a setback and enabled London to increase her lead, but when Napoleon restored order in

Early
history
of Paris.

Under
Louis
XIV.

During
and after
the Revolu-
tion.

France the metropolis on the Seine once more began to take strides forward. The Corsican did much for the city in a material way, opening new streets and squares, constructing new public buildings, and erecting monuments. He set out to make Paris the finest city in Europe, and to a considerable extent he succeeded. The distinctively modern city had its birth in the reconstructions which followed the great upheaval of 1789. With the collapse of the first Bonaparte in 1815, however, the life of the city turned somewhat drab and during the next thirty-five years Paris merely jogged along in a rut. Then Napoleon III took the city in hand and within a very few years made a great transformation in it. Under his inspiration considerable sections were demolished and rebuilt—with wide boulevards and spacious squares. The cost was enormous, but Paris became the queen city of the universe.

Paris in
the four
revolu-
tions.

Meanwhile, as students of history will recall, the French capital had taken the leadership in several revolutions. The great *débâcle* of 1789 began in Paris, so did the July Revolution of 1830, and the revolution of 1848. Finally, when the Second Empire collapsed in 1870, Paris once more burst aflame. The Parisians proclaimed a republic and the rest of the country merely accepted the accomplished fact as it had done on previous occasions. During these turmoils Paris quite naturally obtained a world reputation for starting trouble, a reputation by no means undeserved. The national government, even before 1870, had come to realize the necessity of keeping close watch on Paris and of putting the capital under bonds for good behavior. The extreme pains taken by Napoleon III in this respect sometimes bordered on the ludicrous. When the city was being reconstructed during his reign he ordered that all street plans be carefully examined by the military tacticians to make sure that no vantage points were left for rioters to occupy. The use of stone blocks in paving the streets was forbidden because it was felt that they might too easily serve in the building of barricades.

Since
1870.

With the establishment of the Third Republic in 1870-1871 it was assumed that the strict national supervision of Paris would be relaxed. But this assumption proved to be ill-founded. The city was kept under bonds and remains so to this day. The national government has turned a deaf ear to Parisian demands for home rule. Various pretexts are put forward to justify this

situation but the fundamental reason for the capital's long-continued tutelage may be found in the simple fact that, with cities as with men, an evil reputation is hard to live down. The behavior of Paris has been exemplary for more than fifty years, but the French people as a whole have not yet forgotten the events of the preceding eight decades.

Apart from this historical reason, however, there are some good grounds for keeping the capital under close surveillance. Paris is by far the largest city in France, larger than any ten others combined. It is the seat of the nation's government and hence contains a prodigious amount of national property—legislative halls, palaces, gardens, museums, art galleries, and monuments. The amount of damage to this property in the event of serious rioting might be very great, and much of it could never be repaired. Paris contains only one tenth of the French population, nevertheless the capital dominates almost every branch of the national life—political, social, financial, cultural. She is both the head and the heart of France. Parisians feel much aggrieved over the "bondage" of their city, but with much less reason than the citizens of Washington for they at least have a share in electing members of the French parliament and they also choose a municipal council which controls the financial affairs of the city. The people of Washington elect no senators, no congressmen, and no city councillors.

Other great cities of Europe have accomplished marvels in the way of modernization during the past hundred years or more. Overgrown, sprawling, mediæval towns have been transformed into the Vienna, Munich, and Dresden of today. But Paris was the pioneer. Her public authorities, architects, and engineers were the first to practice city planning as a modern art. They were the first to put into visual form the conceptions of order and convenience, symmetry and spaciousness, cleanliness and beauty, which are the central ideas in urban replanning movements of our own day. The example of Paris has spread far—even to the two Americas and the Orient. Great cities throughout the world have copied the layout of her squares and boulevards,—but not the frame of her government.

The general law under which Paris is now governed was adopted in 1871, but this law made no great change in the existing system. It merely continued, for the most part, the arrange-

Paris as
a pioneer
among
modern
cities.

ments that had existed under the Second Empire. The city, along with a few small communes outside, constitutes the Department of the Seine. Its area is one hundred and eighty-five square miles and its population was approximately three millions in 1921. Every other department in France has a single prefect at its head: the Department of the Seine has two prefects, who are respectively known as the prefect of the Seine and the prefect of police. These two national officers, with their large corps of subordinates, constitute the administrative branch of the city's government. A city council of eighty elective members is the municipal legislature.

The prefect of the Seine is appointed by the President of the Republic on recommendation of the prime minister. Like the prefects of the other French departments, he holds office for no definite term but is removable at any time by the President. In practice the length of term has shown considerable variation, ranging from two to fifteen years. The office is very remunerative as French official salaries go, and the prefect of the Seine is also provided with living quarters at the Hôtel de Ville together with a liberal allowance for expenses. This prefecture is said to be the third highest office in France, ranking next to the presidency and the prime ministership. Certainly it is a position that places its occupant very much in the public eye.

In one sense the appointment to the prefecture of the Seine is political, for when the post becomes vacant the new appointee is sure to be some one who has been a prominent supporter of the dominant bloc in the Chamber of Deputies. But it is not a political office in the sense that every change of national administration compels a change of incumbency at the Hôtel de Ville. Several ministries may come and go, one after another, leaving the same prefect in office. The relations between the ministry and the prefecture are now so clearly established by the laws, by decrees, and by usage, that there is not much room for friction when the ministry represents one political group and the prefect belongs to another. The prefect of the Seine is immediately subordinate to the minister of the interior, from whom he receives instructions. In all important matters he consults with this minister before taking action.

There are eighty-nine departments in France and it is customary to promote prefects from small departments to larger

General
frame-
work
of Paris
govern-
ment.

The pre-
fect of the
Seine.

Nature
of his
position.

ones. Young men enter the public service as subordinates in a subprefect's office and then slowly rise by promotion to be themselves subprefects, or eventually prefects. The prefecture of the Seine is the pinnacle to which they all aspire, but it is not always filled by promotion from below. No mere bureaucrat, chosen on a basis of seniority, could acceptably fill this position. It requires a rare combination of skill, firmness, and diplomacy, for it is the most difficult post in the whole range of French local government. Many notable men have filled it during the past hundred and twenty-five years, including Odillon Barrot, Georges-Eugène Haussmann, Jules Ferry, Léon Say, Ferdinand Duval, and J. G. de Selves.

The most difficult office in France.

The powers of the prefect of the Seine may be grouped under two principal heads. In the first place, he possesses in the department of the Seine—which includes not only the city of Paris but a strip of territory outside—all the powers that pertain to the office of prefect in the other French departments. In the second place, he exercises, in the absence of a Parisian mayor, all the functions (except those relating to police) that belong to the office of mayor in the communes.¹ His position is that of mayor and prefect combined.² As the virtual mayor of Paris he is the local agent of the national authorities. In one capacity he carries out such resolutions as may be passed by the municipal council of Paris and by the general council of the department of the Seine—for, as will be noticed later,³ these two bodies are slightly different in composition. He prepares the municipal budget (except that portion which has to do with police) and lays it before the Paris municipal council at the proper session, appearing in the council chamber to explain and defend the various items contained in it. He has general charge of all civic and departmental property; he supervises its construction and maintenance. In all legal transactions he acts as the representative of the city or of the department, as the case may be.

The prefect's powers.

Inasmuch as all the streets of Paris are included within the category of *la grande voirie*, the prefect of the Seine exercises supervision over them, except in matters that have to do with

¹ See *above*, pp. 296-298.

² A detailed analysis of the prefect's powers may be found in Eugène Magné de la Londe's *Les attributions du préfet de la Seine* (Paris, 1902).

³ See *below*, p. 334.

the regulation of traffic, where the responsibility rests with his colleague, the prefect of police. The immediate administration of the great public services of the city, such as water supply, sewerage, lighting, street cleaning, markets, and the various other civic enterprises, is also vested in his hands, as well as the general oversight of all poorhouses, hospitals, and like institutions. He has important functions in connection with the system of poor relief and with institutions of primary and higher education. On all matters within his jurisdiction he has authority to publish orders or decrees such as are issued by the other prefects or by the mayors of communes. In addition to all this, he is responsible for the exercise of many other functions, the supervision of the *état civil* and the *état militaire*, the preparation and revision of the voters' lists, the oversight of many matters connected with the system of universal military service, and the supervision of the work which is carried on at the headquarters of the twenty Paris arrondissements. There is, in fact, a greater concentration of administrative powers in the hands of the prefect of the Seine than in those of any other local official in France, or, indeed, in any other European country.

His
respon-
sibility.

For the efficient and satisfactory performance of his various duties the prefect of the Seine is not directly responsible to his municipal council; he is accountable to the national ministry alone. He must, however, be able to work in tolerable harmony with the council, for without its coöperation the necessary funds for conducting a considerable part of the administration would not be forthcoming. I say "a considerable part", because many of the items in the annual budget are obligatory; the laws make them so, hence they are not subject to the council's control. But many other items are within its jurisdiction, and so far as they are concerned the prefect must depend upon his powers of persuasion. He must induce the council to vote the money, otherwise the administration of various services cannot be carried on. Occasionally there are deadlocks between the prefect and a majority of the councillors, but some way of solving them (usually by compromise) is always found. In controversies with the council the prefect generally gets the better of it, for he has the whole influence of the national government behind him. Not infrequently, in addressing the council, he reminds the councillors that this is the case. "Need I say", he warns

them, "that I have been assured in advance of the ministry's support in this matter."

On the other hand, the prefect is by no means a free agent. Being the direct subordinate of the minister of the interior, he receives from this official the most precise instructions on all important matters and sometimes on minor ones as well. The prefect does very little on his own initiative or responsibility. On all save routine matters he explores the mind of the minister before publicly committing himself. On the other hand, it is to be remembered that French ministers are mere birds of passage, for they resign whenever they fail to command a majority in the Chamber of Deputies and this happens at frequent intervals. So ministers flit in and out of office while the prefect stays on. When a prefect has been several years at the Hôtel de Ville he gets to know Paris and her troubles much better than any minister from some provincial town or rural department can hope to know them. He has established a *modus vivendi* with his council. He has learned its moods and its idiosyncrasies. This gives him an advantage in dealing with a minister who has no such knowledge or experience and whose own tenure of office is none too secure.

His limited range of initiative and discretion.

The prefect of the Seine is assisted by a very large staff which comprises officials of all ranks. Prominent among them is the secretary of the prefecture, or *secrétaire général*, who assumes a great share of the prefect's responsibilities with reference to clerical routine. The remaining members of the staff are grouped into "services", and these again into bureaus and sections. Each service has its chief technical officer and deputy chief. Below them are employees of all grades, skilled and unskilled. All the higher posts are filled by the President of the Republic on the recommendation of the minister of the interior, the lower ones by the prefect himself. But in most cases the names must be taken from a *tableau d'avancement* or promotion list which is prepared each year by a board organized for the purpose. Entrance to the lower positions is by competitive examination, with different tests for each service. The tests are conducted, in each case, by a specially constituted examining board, but no candidates except those who have the requisite general qualifications are allowed to enter the competition. Positions in the service of the city are much sought after, for the municipal

The prefect's staff.

staff is tolerably well paid and liberal pensions are given to employees on retirement after long terms of service.

The decentralization
of work.

In addition to the headquarters staff of the prefecture, which is directly in charge of the great municipal services, there is a local administrative organization in each of the twenty arrondissements or wards into which the city is divided. Each arrondissement has its local headquarters (or *mairie*, as it is called) with a mayor in charge. But the mayor of a Paris arrondissement is not chosen, as in the communes, by an elective council. He is appointed by the national government and serves without pay. Each mayor is assisted by a staff of three to seven adjoints, who are similarly appointed and who likewise receive no remuneration.¹ All these officials are the immediate subordinates of the prefect of the Seine, intrusted with the duty of carrying out his orders. The actual work is, of course, not performed by the mayor and adjoints themselves but by the permanent staffs maintained at the local headquarters. Each of the twenty Parisian arrondissements has its secretary, its heads of bureaus, and its clerical staff similar to that of the ordinary communal *mairie*; and by these officials the work of maintaining the *état civil*, the preparation of voters' lists, the functions connected with the military system, and various other tasks are performed. Connected with each *mairie*, moreover, are a number of commissions, presided over by the mayor or by an adjoint, and composed of lay citizens appointed either by the prefect or by the minister of the interior. To these local commissions are given many powers relating to poor relief, public health, education, sanitation, and a multitude of minor municipal services.

Value of
this plan.

In this way much of the administrative work of the prefect has been decentralized; indeed, a large share of the routine is now performed at the various *mairies* and not at the Hôtel de Ville. Like the headquarters staff, the personnel of the twenty *mairies* forms a part of the municipal civil service; it is a permanent body uninfluenced to any considerable extent by changes in the higher ranks of the administration. The arrondissement authorities have little or no voice in the shaping of general mu-

¹ There are from three to five adjoints in arrondissements with less than 120,000 population, and from five to seven adjoints in those with populations exceeding that figure. This provision was made in the Law of June 25, 1923.

nicipal policy; their work is mainly to see that the plans made at headquarters are carried out in their respective wards. But the system has brought into the service of the municipality a great many public-spirited citizens who, while serving gratuitously as mayors, adjoints, or as members of local commissions, manage to become well versed in local affairs. The number of unpaid officials in the government of Paris must run far into the hundreds. These officials, of course, are not chosen by any system of competitive examination and their selection is influenced to a considerable extent by politics. The members of the Chamber of Deputies have some voice in the making of these appointments.

The other Parisian prefect, the prefect of police, occupies a post that has been in existence for over a century.¹ He is a colleague, not a subordinate, of the prefect of the Seine. Like the latter, he is appointed by the President of the Republic on recommendation of the ministry and may be removed at any time. During the early years of the Third Republic there were frequent changes in the tenure of the office. Paris had five different prefects of police during the years 1870-1871 and ten others during the years 1873-1899. One after another they came and went, usually as the result of friction with the ministry or as a concession to violent outbursts of popular criticism. Twenty-five years ago the position was looked upon as the most precarious in the whole governmental service. Then Louis Lépine became prefect of police and held the place for fourteen years, thus giving his job an element of stability which had hitherto been lacking. Lépine was a great police administrator, one of the most notable that any city has ever had. But his successor did not fare so well, and since 1913 Paris has had seven prefects of police, an average of one every two years.² Thus the position continues to be one of commanding influence and precarious tenure.

The prefect of police.

The powers of this prefecture of police were originally deter-

¹ E. Mouneyrat's *La préfecture de police* (Paris, 1906), gives a full account of the history, organization, and powers of this prefecture.

² Since Lépine gave up the position in 1913 the seven prefects of police have been as follows: Hennion, 1913-1914; Laurent, 1914-1917; Hudelo, 1917; Raux, 1917-1921; Luellier, 1921-1922; Naudin, 1922-1924; Morain, 1924. Naudin, by the way, resigned as prefect of police to become prefect of the Seine (August 2, 1924). A year later he was promoted to the Council of State.

His
functions.

mined by the law of 1800 which established the post, and about half a century later (October 10, 1853) an imperial decree endeavored to make clear the boundary line between his powers and those of his colleague, the prefect of the Seine. But so many modifications have been made by subsequent laws and decrees that the exact scope of either prefect's authority is not now easy to define. In general, however, the prefect of police has charge of that branch of administrative jurisdiction which the French include in their broad definition of the term "police". Police jurisdiction in France, however, comprises not only the maintenance of law and order but many other functions which are superficially related to this one,—for example, the making of sanitary regulations, the oversight of unhealthy or dangerous industries, the so-called *police des mœurs*, and many functions which in America are not committed to the municipal police but to inspectors in other departments.

His broad
powers.

In a word, the prefect of police exercises those powers of *sûreté* which in the ordinary communes are given to the mayors, together with the larger police functions which in other departments go to the regular prefects. His authority is not, it may be repeated, subject to any surveillance on the part of the prefect of the Seine; he is responsible directly to the minister of the interior. Under instructions which he may receive from this minister he frames and promulgates *arrêtés* and ordinances dealing with matters pertaining to the protection of life and property, with the regulation of traffic, the abatement of nuisances, the supervision of aliens and political suspects, the enforcement of passport regulations, and the guardianship of various national interests. Subject also to the general rules laid down for his guidance by law or by ministerial decree, he regulates everything connected with the personnel, the pay, the promotions, and the discipline of the Paris police force, and is the executive head of the system in all its branches. He is directly and entirely responsible for every incident of police administration, and from his headquarters opposite the Palais de Justice he controls all the various bureaus into which the service is organized. The position is one of great power and of correspondingly great responsibility, for the efficient policing of Paris is no easy task. Not only must the prefect display qualities of firmness and tact which nature does not frequently combine in

one individual, but he must also be a man upon whom the national authorities can depend absolutely, for the gendarmes are the city's first line of defence in any emergency.

Although it is commonly said that Paris is governed by these two prefects, there is also a municipal council which is not without an important share in the direction of administrative policy.¹ This *conseil municipal de Paris* is composed of eighty members who are elected by a popular vote under a form of suffrage identical with that which exists in the other cities of the country.² The methods of compiling and revising the voters' lists, the machinery of election, the system of supplementary polling, and all the other incidents of an electoral campaign are likewise substantially similar to those in the other cities. The Parisian councillors are not, however, elected on a general ticket. Each of the twenty *arrondissements* is divided into four electoral sections or quarters and each of these elects one councillor. Since, however, these quarters have remained unchanged for the last fifty-five years, they are at the present time so unequal in population and in number of voters that one councillor may and frequently does represent several times as many municipal voters as one of his colleagues.³ This discrepancy has given rise to so much criticism that from time to time various schemes have been submitted to the central government looking toward a rearrangement of the quarters, but none of these plans have thus far found favor. It would, indeed, be difficult to effect a satisfactory adjustment without either changing the historic boundaries of the *arrondissements* or giving to some wards a larger number of councillors than to others. Either of these alternatives is strongly opposed, for the bounds of the quarters have now become historic and the principle of equal representation has likewise obtained a degree of sanctity in the minds of most Parisians.

The
municipal
council.

How
coun-
cillors are
chosen.

The Paris councillors are elected for a four-year term and the elections are held upon the same day as those of the provincial cities, with supplementary pollings a week later if necessary, and in most of the precincts they are usually required.

Term and
remunera-
tion.

¹ H. Chrétien, *De l'organisation du conseil municipal de Paris* (Paris, 1906). See also the references cited on p. 318 above.

² Above, p. 238.

³ The largest "quarter" now (1925) has 120,207 population; the smallest has 4,629.

No provision is made by law for the payment of councillors, but the council has adopted the practice of voting an annual sum to cover the actual expenses of its members. In virtue of this custom the councillors receive a fixed sum of nine thousand francs apiece and this remuneration, which is practically a salary, has been tacitly approved by the higher authorities.¹

Partisan
tendencies.

The electoral campaigns are conducted on a purely partisan basis, the national and municipal party lines being closely identified. At one period it was possible for a Parisian councillor to be at the same time a member of the Chamber of Deputies and there were many instances of this dual membership, but the practice is no longer permitted. One cannot say that Paris is more radical than the rest of France, or, on the other hand, that it is more conservative. Among the various sections of the city there is great political diversity. The arrondissements on the right bank of the Seine, from Passy to the Market, and on the left bank from the Champs de Mars to the Church of Saint-Sulpice, usually elect councillors who belong to the parties of the Right. These sections are inhabited, in the main, by the well-to-do. But the arrondissements which are inhabited mainly by workers, including the districts of Saint-Antoine, Montmartre, La Villette, and Bercy, choose councillors whose affiliations are with the Left. The same is true of the northern, or industrial zones of the city. On the other hand there are various quarters of the city, including the Latin Quarter, and the southern suburbs on the left bank of the Seine, which have a mixed population and may swing either way. On the whole, the Left has been gaining during recent years. The Paris council now contains a sprinkling of Communists.

The
council's
procedure.

With reference to its general procedure and the scope of its deliberations, the municipal council of Paris is governed by the rules prescribed for the councils of the other French cities. It meets four times a year in regular session, but special meetings are called whenever necessary and as a matter of fact these extra sessions occupy most of the intervals between the statu-

¹ In addition the councillors have voted themselves an annual allowance of 4,500 francs each, as members of the council of the department of the Seine. This practice both the Cour des Comptes and the Conseil d'État have declared to be illegal, but the Ministry of the Interior has consistently declined, for political reasons, to prevent the annual payments from being made. See Joseph Barthélemy, *Le gouvernement de la France* (Paris, 1919), p. 173.

tory ones. Since 1886 the meetings have all been open to the public.¹ At all sessions, whether regular or special, the two prefects have the right to be present and to be heard, and they do, in fact, attend the meetings regularly; but the prefect of the Seine is not the council's presiding officer. At the first meeting subsequent to the elections the council chooses its own president by secret ballot, also its vice-presidents, one or more secretaries, and a syndic or general director of ceremonies. These officers make up the council's "bureau", and the bureau has general direction of its proceedings. The president of the council, moreover, is a dignitary of considerable importance. He is much in evidence on all occasions of ceremony and is almost always on hand to welcome delegations, open conventions, and help unveil monuments. It is quite in keeping with the national government's adroit way of doing things that this representative of the people should be so constantly propelled into public view while the two appointive prefects should keep in the background but exercise the power.

At meetings of the Paris municipal council the councillors are seated according to their party affiliations, from Left to Right, as in the national parliament. Councillors do not speak from the floor but go to the tribune, which is a rostrum just below the presiding officer's chair. The two prefects have front seats just below the tribune. There is a good deal of informality about the council's proceedings; the councillors smoke and talk with one another in the chamber while the debates are going on. The visitor to a council session wonders how a great city manages to get its affairs settled in this free-and-easy way. The answer is that it doesn't. The prefects attend to most of the important things. The council's committees also do a good deal. Not much is really determined by the council as a whole at its plenary sessions.

A council of eighty members, in the nature of things, must lean heavily upon committees, and the Paris municipal council is no exception. Much of its preliminary work is performed by standing committees or commissions, of which there are several and to which are added, from time to time as occasion demands, an even larger number of special committees. The method of selecting the standing committees is somewhat peculiar and very

¹ *Loi du 5 juillet 1886*, in *Bulletin des lois*, 1886, ii, p. 520.

different from that ordinarily pursued in the municipal councils of England or the United States. Immediately after the elections the members of the council are divided by lot into four equal sections, each section remaining intact during the four years of the council's existence and each selecting, by vote of its members, two, three, or four representatives to serve on each standing committee of the council. At the present time there are six of these committees, which divide among themselves the more important departments of civic administration.¹ The special committees are chosen in a variety of ways—sometimes by vote of the whole council, sometimes by the selection of representatives from various standing committees, and often by a combination of two or more of these committees themselves.² Each committee, whether standing or special, selects its own chairman. In addition to its committees, the council also has representatives upon a considerable number of mixed commissions made up of lay citizens or officials.

How
business
is done.

Matters may come before the council either by message from one of the prefects—usually the prefect of the Seine—or on proposal of some individual member.³ In either case the question is referred to the appropriate committee or to a mixed commission for examination and report, and the result is transmitted in printed form to all members of the council some time before the regular session.⁴ Service on these various committees and commissions involves heavy demands upon the time and attention of the councillors and it is this fact that has moved the higher authorities to tolerate the liberal allowance which is voted to councillors each year under color of expenses.

¹ Of these six standing committees, the First Committee (12 members) deals with finance, civic contracts, municipal and public monopolies; the Second Committee (12 members) with police, fire protection, and parks; the Third Committee (16 members) with highways and works affecting highways; the Fourth Committee (16 members) with education and fine arts; the Fifth Committee (12 members) with poor relief and municipal pawnshops; the Sixth Committee (12 members) with sanitation, sewerage, water supply, and navigation of the Seine.

² Among the special committees now in existence are those on tramways, gas, and loans. The budget is dealt with by a committee of the whole council, after the English fashion, but all the standing committees become sub-committees of this committee of the whole.

³ These propositions may be found in *Conseil municipal de Paris: Rapports et documents* (issued annually since 1871).

⁴ Some of these reports are quite elaborate and of permanent value. All the proceedings of the council are printed in the *Bulletin municipal officiel de la Ville de Paris*.

The influence of the French committee is, however, by no means so great as that of the standing committee of an English borough council. The Paris municipal committee does not, like its English prototype, deal finally with any matter, however unimportant; and its recommendations have no certainty of acceptance by the council. From the peculiar way in which the committees are constituted, some of them may and frequently do contain a majority of councillors who do not coincide in political views with a majority of the council as a whole. Hence committee recommendations are not infrequently rejected, and such action on the council's part is not construed as an affront to the committee. The committee's recommendations are not presented and defended before the council by its chairman, as is the Anglo-American practice. Instead the committee appoints a reporter (*rapporteur*) who performs this function. Unlike the English committees, moreover, these Paris bodies do not control any of the municipal services. The heads of the various services take their instructions from the prefect, not from the chairmen of council committees. The committees merely make recommendations to the whole council and only in an indirect way is the latter able to bring pressure upon the administration. The Paris committees investigate and advise; their advice may be followed, but the prefect is under no obligation to give it any more weight than he thinks advisable.

In a word, the Paris municipal council does not elect the administrative officers and does not directly control their policy. This renders it even less influential in municipal affairs than are the councils of the provincial cities. No resolution of the council can be put into effect without the express approval of the prefect of the Seine. It is forbidden to discuss any question of national politics, but this prohibition it sometimes sets at defiance. Its only important legal function is that of voting the budget, and even here its discretion is closely circumscribed by law. It has various powers with respect to the acquisition of municipal property, the regulation of license fees and market tolls, the acceptance of bequests and gifts, and so on; but in every case the prefect's concurrence is essential to valid action. Under some circumstances the resolutions of the council may carry considerable weight and there are times when the national government finds it advisable to have the prefect comply with

The
council's
powers.

its requests as a matter of expediency. Much depends upon the political aspects of the issue. In any matter affecting the government of Paris one must bear in mind that both the minister of the interior and the prefect of the Seine are political as well as administrative officers. They must often make a choice between efficiency and expediency. Hence the Paris council is sometimes able to exert more influence than it is supposed to possess. It compels both prefect and minister to knuckle under now and then. Nevertheless, and in spite of these occasional triumphs, the Paris council is perhaps the least influential among the great municipal legislatures of the world—not even excepting the New York board of aldermen.

The municipal council exists for Paris proper. The Department of the Seine, which includes not only the city but the district immediately surrounding, has a general council of its own.¹

General
council
of the de-
partment
of the
Seine.

This council is not separately elected but is made up of the members of the Paris municipal council together with twenty-one councillors from the two arrondissements outside the city proper. This gives a general council of one hundred and one members. The municipal council of Paris and the general council of the Seine meet separately, have different functions, and somewhat different procedures. The general council has much the same powers as are possessed by the *conseils généraux* of the other French departments. In a broad way it serves as the legislature of the department. It has much to do with the regulations relating to poor relief, public buildings, and the school system. But its legislative powers are narrow for three reasons; first, because nearly all important matters are dealt with by national laws or by executive decrees; second, because the general council is forbidden to take up any "political questions" (a term which has been given a very broad interpretation); and third, because its actions may be overruled by the minister of the interior. In addition, no matter can be taken up by the council except on the prefect's initiative.

The de-
partmental
budget.

So the chief function of the general council is to vote on the annual budget of the department.² This budget is tentatively prepared in the office of the prefect and submitted to the coun-

¹ H. Lanfant, *Le conseil général de la Seine, ses origines et attributions* (Paris, 1903).

² See the author's *Governments of Europe* (New York, 1925), pp. 559-560.

cil at one of its regular sessions. It is then discussed, item by item, and changes may be made in it by majority vote of the council, but such changes are subject to veto by the national government. When the budget has finally been approved, the council figures out the amount of revenue needed. Then it apportions among the various *arrondissements* the sums of money required to cover the total expenditure. The council is also supposed to examine the accounts of the prefecture but this task it invariably refers to a committee. A few other powers belong to the council, particularly with reference to main highways, bridges, franchises, and public institutions. With actual administration the council has nothing to do, but various questions of administrative policy are submitted to it by the prefect from time to time. Finally, the members of the general council constitute a section of the electoral college which chooses the senators from the department.

During the last fifty years there has been a persistent clamor for a reform of this metropolitan government. Some Parisians have been shouting for home rule like the politicians of New York and Chicago. "Let Paris be as free as the smallest commune", is their slogan. It grieves them that the capital should be held in chains while rural hamlets roam free. Undoubtedly there is some force in their contention. But Parisians as a whole have not become much excited over the issue. They agree in principle that their city is not being fairly treated, but they are far from unanimity as to what ought to be done about it. Various schemes of reform have been brought forward from time to time, most of them making provision for a central *mairie*, with a mayor of Paris to be elected by the council and invested with many of the powers now possessed by the prefects,¹ but the central authorities have given no sign of weakening in their fixed belief that the capital should continue to be dealt with as a special unit of local administration. The whole question, moreover, is bound up with the nation-wide issue of decentralization and regionalism. It has been proposed to

The
clamor
for home
rule.

¹ Some of these schemes may be found in S. Lacroix's *Rapport sur l'organisation municipale de la ville de Paris* (Paris, 1880); G. Villain's *Paris et la mairie centrale; étude de centralisation administrative* (Paris, 1884); A. Combarieu's paper on "La mairie centrale de Paris" in *Revue politique et parlementaire*, July 10, 1897; and J. Delaitre's *La municipalité parisienne et les projets de réforme* (Paris, 1902).

abolish the departments and the prefects altogether, substituting larger administrative divisions with some system of responsible government. But the French parliament has not been able to agree on the details of any such scheme and there seems no prospect that it will do so in the immediate future. There are many conflicting interests involved. No one has yet been able to frame a scheme of home rule for Paris which would not deprive the national government of much political patronage that it now enjoys. And when a reform involves a deprivation of patronage it always loses favor with the politicians. The rural senators and deputies, with their bucolic ideas as to how the people of a great city should conduct their affairs, are in no mood to take the shackles off. To the cry "Let Paris be free!" they answer that "Paris belongs to France". And this, of course, is true. What would France be without this focus of her whole national life?

CHAPTER XIX

GERMAN CITIES BEFORE THE WAR

In the regions north of the Rhine there were many burgs or fortified towns during the later Middle Ages. Most of them had long been under the domination of some magnate, baronial or ecclesiastical, but by one means or another had gained their independence. The largest of these communities were called Free Cities. They owed a nebulous allegiance to the titular head of the Holy Roman Empire, but in reality controlled their own affairs without any interference from outside. During the thirteenth and fourteenth centuries these cities of the North Sea and Baltic region formed leagues for mutual protection—the Hanseatic League was the largest and most widely known. This great urban alliance was the most comprehensive trading league that the world had ever seen, comprising at one time nearly a hundred cities and stretching from Dinant, in modern Belgium, to Reval on the Baltic. Hamburg, Bremen, Frankfort, Lübeck, and Danzig were the outstanding members of this notable confederation. The League was not a close union, but it had a great council composed of delegates from all the member-cities. This governing body met every year, as a rule, and settled matters of common interest.¹

The mediæval free cities.

The loose organization of the Hanseatic League contributed to its ultimate decline. The member-cities were strung over so wide a range of territory, and had such divergent interests, that they could not agree upon a common policy. Eventually the meetings of the great council ceased, and coöperation gave place to rivalry. New commercial cities grew up outside the League, moreover,—cities such as Amsterdam, which broke into its monopoly. Finally, the growth in power of royal states which controlled the main arteries of trade was a factor in breaking the League's cohesion. The growth of nationalism under royal

The Hanseatic League of free cities.

¹ For a popular account of the League, see Helen Zimmern, *The Hansa Towns* (New York, 1899).

leadership changed the whole situation. The Dutch controlled the mouth of the Rhine; the Danes took charge of the Elbe; the Swedes held the outlets of the Weser and the Oder, while the Poles dominated the Vistula. By the imposition of heavy tolls they checked the commercial prosperity of the Hanse confederates and in 1535 gave the League its coup de grâce by opening the Baltic passage to the ships of all countries.

How the
Hanse
cities
were
governed.

The political framework of a Hanseatic city consisted of an elective burgomaster (sometimes more than one), a senate, and a city council or *Stadtrat*. The council was an elective body, but the citizens as a whole had very little part in choosing its members. The merchants of the city generally controlled the election, which in time became a mere formality. On the day of the election a strong guard was usually thrown around the city hall or *Rathaus* and none but the councillors were permitted to enter. The latter then re-elected themselves or filled vacancies by choosing their own friends. Then the council named the senators and the burgomaster. In this way the power which was assumed to rest with the whole body of burghers gravitated into the hands of a few. The gradual assumption of control by the merchant class was facilitated, moreover, by the organization of guilds which none but traders were permitted to join. In other words, the "free cities" became plutocracies, with a system of government by the well-to-do.

The shift
in urban
hegemony
during the
sixteenth
and seven-
teenth cen-
turies.

But in spite of their oligarchic political structure and their lack of real unity, these cities had great advantages as trading centers down to the close of the fifteenth century. They were well placed for the handling of trade between Flanders, England, and Muscovy. Then came a series of epoch-making events which changed the whole orientation of commerce. America was discovered, thus opening up a new continent. The finding of an all-water route to India via the Cape of Good Hope brought an old continent within easier reach. These discoveries inured to the advantage of cities with more southerly locations—those of England, France, Portugal and Spain. The paths of seaborne commerce shifted from the Baltic and the North Sea to the Atlantic and the Indian Ocean. The free cities of the north were now off the main routes and began to fall behind. Then, a little later, came the Thirty Years' War which ravaged both country and town in the area north of the Rhine. Without exaggeration

it can be said that this furious conflict set the German cities back at least a hundred years. What was even worse, the Thirty Years' War left the country disintegrated into several hundred dukedoms, principalities, and other small territories, each with its own tariff barriers and closed markets. Almost alone among this host of states stood Prussia, a territory of considerable size with opportunities for vigorous urban growth.

Even in Prussia, however, there were almost no vestiges of municipal self-government during the hundred and fifty years which followed the Peace of Westphalia (1648). The burgomasters and councillors were chosen by a select class of citizens—those who owned property or had inherited the right to vote. In many cases the king appointed all the important officials of the city from burgomaster down. Many municipal positions were sinecures which carried good salaries but with no duties to perform. The national government used them as a means of pensioning superannuated military officers at the city's expense. As in France, the offices were sometimes sold to the highest bidder. Garrisons were quartered in the cities at the expense of the citizens and all persons in the civil or military service were given exemption from local taxes. The more important municipal functions, such as the building and cleaning of streets, the supervision of the market, and the collection of taxes—not to speak of policing the city, were often placed in the hands of military officers who did their work poorly and at heavy cost to the taxpayers. Trade between the cities and the rural districts was throttled by the imposition of heavy tolls, for there seemed to be no other way of raising the money. Within the towns various guilds and other close industrial corporations controlled trade for their own benefit and prevented the rise of free competition in industry. Popular initiative both in local government and in economic life was thoroughly held in bondage to the pecuniary interest of the governing class.¹

German city government in the era preceding the Napoleonic conquest.

¹There is plenty of literature relating to the evolution of the Prussian municipal system both before and after 1806, including G. Waitz's *Deutsche Verfassungsgeschichte* (8 vols., Kiel, 1844-1861), especially ii, 374 ff.; K. D. Hullman's *Das Stadtwesen des Mittelalters* (4 vols., Bonn, 1826-1829); A. Heusler's *Der Ursprung der deutschen Stadtverfassung* (Weimar, 1872); J. E. Kuntze's *Untersuchungen über den Ursprung der deutschen Stadtverfassung* (Leipsic, 1895); Georg von Below's *Das ältere deutsche Stadtwesen* (Bielefeld, 1898); Karl Hegel's *Die Entstehung des deutschen Stadtwesens* (Leipsic, 1898); E. T. Gaupp's *Deutsche Stadtrechte des Mittelalters* (2

Jena
and its
aftermath.

This was the situation in the German cities when Napoleon Bonaparte invaded the country and crushed the Prussian army at Jena (1806). With an astounding indifference the people let him overrun the kingdom and dictate his own terms. To the cities the Napoleonic conquest seemed to be no disaster. It was merely a change from one dictatorship to another, and perhaps to a more enlightened one. More enlightened, indeed, it proved to be, for Napoleon gave the Prussian city the first taste of self-determination that it had enjoyed for several centuries. He abolished most of the centralized control, told the cities to elect their own local officers, and assured them that they would have home rule so long as they behaved themselves. Thus Bonaparte proved to be the harbinger of a new régime in Prussia. By clearing away the mediæval débris he became one of the makers of modern Germany.

The Stein
reforms
and the
Code of
1808.

When Napoleon evacuated Prussia after the Peace of Tilsit, the Prussian king and his ministers resolved to do a lot of housecleaning. They realized that the old political order, which Napoleon had partially demolished, could not be restored. Even were restoration possible it would not have been wise. New times demanded new measures. The only question was as to where the reforms had best start. The royal authorities determined (and they were right) that it was wisest to begin with local government. Accordingly, in 1808, a comprehensive municipal code was framed and adopted. This code, which was extended to all the cities and towns of Prussia, is associated with the name of Baron von Stein, the king's chief minister, but there is some doubt as to his authorship of it.¹ Its expressed purpose was "to give the towns a more independent and efficient constitution, to create for them a focus of union, to give them an active influence in the government of the country, and by vols., Breslau, 1851); H. G. Gengler's *Deutsche Stadtrechte des Mittelalters* (Erlangen, 1866); W. Gerlach's *Die Entstehungszeit der Stadtbefestigungen in Deutschland* (Leipsic, 1913); F. Keutgen's *Untersuchungen über den Ursprung der deutschen Stadtverfassung* (Leipsic, 1895), and the same author's *Urkunden zur städtischen Verfassungsgeschichte* (Berlin, 1901). A very serviceable short survey may be found in Hugo Preuss's *Die Entwicklung des deutschen Stadtwesens* (Leipsic, 1906).

¹In any event, Stein received much assistance from a Königsberg jurist named Frey, but it is probable that the minister himself contributed the main ideas. See Ernst Meier, *Die Reform der Verwaltungsorganisation unter Stein und Hardenberg* (Leipsic, 1881); Max Lehmann, *Freiherr von Stein* (3 vols., Berlin, 1902-1905); and J. R. Seeley, *The Life and Times of Stein* (2 vols., Cambridge, 1878), especially ii, pp. 223-247.

the participation of the people in local government to stimulate and preserve a spirit of patriotism."

The provisions of Stein's code were far-reaching. They extended the municipal suffrage to all who owned property or pursued a trade within the city limits and gave the voters the right to elect the city council. They broke the power of the local guilds. They greatly relaxed the control of the central government over city affairs. The city councils were given the right to elect the burgomaster and the magistrates, to control the local services, and to determine the raising of their own taxes. Thus Prussia obtained a uniform system of municipal government, applying to all cities, by little and little.

The reforms of 1808 and of the years immediately following gave the country new strength and confidence. The spirit of nationalism, which had long been dormant, burst forth anew. The country was now self-conscious and united. Its people were determined to shake off the Napoleonic suzerainty at the first opportunity and to consolidate the reforms which they had inaugurated. The opportunity was not long in coming, for the Corsican's power came to an end at Waterloo, less than ten years after he had placed Prussia under the iron heel. Then the Congress of Vienna awarded Prussia some new territory, but the provisions of the municipal code were not at once extended to these accessions.

From 1808
to 1853.

During the next thirty years special arrangements were made for the cities of Westphalia (1835), Posen (1841), and the Rhine Province (1845). In general these arrangements followed the code of 1808 but there were a good many variations, some of them important. When Prussia obtained her first national constitution in 1850, a wholly new code, covering all the cities and rural districts of the kingdom, was enacted and put into force but it was found unworkable and was repealed after it had been only a few months in operation. Attention was then turned to a revision and modernization of the old code of 1808 and this effort culminated in the Prussian City Government Act (*Städteordnung*) of May 30, 1853.¹

The
Prussian
Municipal
Code of
1853.

¹ The code of 1853 may be found in *Gesetz-Sammlung für 1853*, pp. 261 ff. In its original form it is also published in the appendix to A. W. Jebens *Die Stadtverordneten* (Berlin, 1905), but the amendments since 1853 have been very numerous. These amendments are given in the various standard commentaries on the code, of which the best and most thorough are Walter

Its scope
and ex-
tensions.

The code of 1853 did not, however, apply to all the cities of Prussia but only to those located within the six eastern provinces—East and West Prussia, Prussian Saxony, Brandenburg, Pomerania, Silesia, and Posen. Three years later its provisions were extended to the cities of Westphalia and the Rhine Province, but in the case of the latter there were some important amendments. Further extensions were subsequently made to Schleswig-Holstein and to Hanover (1858), so that in time the code of 1853 extended (with some local variations) to virtually the whole of Prussia.

Municipal
codes in
the other
German
states.

The other German states, including Bavaria, Baden, Saxony, Hesse, and the rest, adopted somewhat similar codes at various dates during the nineteenth century.¹ No two of these codes were exactly alike but in a general way all of them followed the Prussian model except as regards the provisions relating to the suffrage. And in any case, Prussia formed about three-fifths of the German empire before the war. Although she lost a good deal of territory by the Peace of Versailles she is still the lion of the Reich, with more area and population than the other twenty states put together. The hegemony of Prussia and of the Prussian example is the first clue to an understanding of the old German government in all its branches.

Outstand-
ing fea-
tures of
Prussian
city gov-
ernment
prior to
the World
War.

The system of city government in Prussia before the World War deserves some study for two reasons. In the first place, it was almost universally commended both at home and abroad for its efficiency and honesty. Even in America it was commonly designated as the world's best scheme of municipal administration. It was marvellously successful in screening its own weaknesses from the public view. Yet the weaknesses were there, as the sequel proved. In the second place, this pre-war plan of city government has by no means been uprooted and thrown away. Revolutions change the form and spirit of na-

Ledermann's *Die Städteordnung . . . nebst ihren gesetzlichen Ergänzungen* (Berlin, 1913); O. Oertel's *Die Städteordnung für die sechs östlichen Provinzen der preussischen Monarchie* (Liegnitz, 1905); and R. Zelle's *Die Städteordnung von 1853 in ihrer heutigen Gestalt* (3d edition, Berlin, 1893). A convenient small handbook is Bruno Schulze's revision of Plagge's *Die Städteordnung . . . zum praktischen Gebrauch ausführlich erläutert* (Berlin, 1901).

¹ Bavaria's in 1869, Saxony's in 1873, Baden's in 1874. For details concerning the old municipal systems of these states, see "Verfassung und Verwaltungsorganisation der Städte: Bayern, Sachsen Württemberg und Baden", in *Schriften des Vereins für Socialpolitik* (Leipsic, 1905-1908), vol. cxx.

tional government but seldom make radical changes in the local areas. As a result of the German revolution the spirit of city government has been considerably transformed but the general framework remains essentially as it was. Burgomasters and magistrates are appointed in much the same way and have similar functions. The city councillors are chosen by a new electorate, in a different way, but their powers are not much changed from what they were. The municipal bureaucracy was not dislodged by the revolution. It has gone right ahead with its work. There is only one way to understanding the new German municipal system, which is by acquiring some knowledge of the old.

The Prussian municipal code of 1853 applied to those areas of local government which are known as Städte. The distinction between a city (Stadt) and a rural area or township (Gemeinde) is not based on differences in population but on a legal principle which has its roots in the previous century. Originally, no doubt, the term Stadt was restricted to those settlements which had considerable populations, while the term Landgemeinde was applied to sparsely settled areas; but this distinction has been so far lost that one now finds many Städte with only a few hundred inhabitants and many Gemeinden which have grown to be populous centers of from ten to fifty thousand. The Gemeinde, no matter what its population may be, is governed differently from the Stadt and has its own plan of administration.¹

The Prussian municipal code of 1853 was extended to all inhabited places which had at any time obtained the right to rank as Städte, no matter what their importance or population. Provision was also made that other places might, by royal decree, be ranked as cities and thus brought within the scope of the code, and many such decrees were issued during the next sixty years. There was no fixed rule controlling the action of the royal authorities in this matter, but as a matter of practice only large communities were admitted to cityhood after 1853. During these six decades, and more particularly after 1870, the country became very prosperous, with a remarkable industrial development, and this industrialization resulted in the rapid growth of

Legal position of the city.

Scope of the Prussian municipal code.

Incorporation of new cities.

¹The same is true, *mutatis mutandis*, in England and in America. In England there are "cities" with populations smaller than some urban districts; in the United States one can find "cities" of four hundred population and towns of twenty or thirty thousand.

both cities and towns. At the outbreak of the war there were about twelve hundred Städte in Prussia. They ranged from little hamlets of a few hundred population to the metropolis, Berlin, with more than two million. All were governed in substantially the same way.

Change
in city
limits.

The rapid growth in Prussian population not only added largely to the number of cities, but also necessitated many changes in the boundaries of existing municipalities. For such changes the code made special provision. When a city desired to change its boundaries it made application to the higher authorities, usually to those of the province, who might make an order subject to the approval of the Prussian ministry of the interior. In some cases the approval of the king was also required.¹ This arrangement still remains in force with one important change; namely, that the powers of the king are now exercised by the Prussian national government.

The city
as a cor-
poration.

The Prussian city was and still is a corporation, with all the rights and privileges ordinarily appertaining thereto. It has the right to sue and be sued, to hold property and to make contracts. In addition it has a considerable range of powers not derived from any statutory enactment, for the German practice has not been to specify word for word the jurisdiction which a municipal corporation may exercise. The code of 1853 merely empowered the local authorities to do whatever they might deem necessary or advisable in the interests of the city. In the case of strictly local affairs, they were to do this on their own initiative and responsibility, but in the case of affairs not wholly local their action was to be subject to the approval of the higher authorities. On the face of things this would appear to have given the cities a large measure of home rule—quite as large as American municipalities have obtained in the home rule states. But as a matter of fact, the Prussian municipal code of 1853 did not establish anything approaching municipal home rule, as Americans understand the term. For it was the higher authorities, not the city councils, who really decided (within the broad terms of the code) whether a matter was strictly local in character or whether it was of more than city-wide importance. In principle the division of jurisdiction was reasonable enough, but in its actual operations it left a good deal to be desired. This practice

Sources
of cor-
porate
powers.

¹ *Städteordnung*, Section 2, par. 4.

of giving the city a general grant of powers and then curtailing its jurisdiction by the requirement of approval from some higher source has been one of the most salient characteristics of Prussian policy.

Take the police power of the cities as an illustration. The wording of the municipal code would seem to imply that central supervision was intended to be exercised over municipal police in the ordinary sense; that is, over the work of the city in preserving law and order. But the royal government of Prussia during the interval between 1853 and 1918 did not construe the provision in this way. On the contrary it interpreted "the supervision of municipal police" to include central control over all things related to the public security, health, morals, and even the public convenience. Under this definition there was almost no limit to what the central authorities might supervise. They did intervene in matters of housing, sanitation, market regulations, billboards; in some instances they dictated the architecture of municipal buildings, the adornment of streets, and the location of public monuments.

The state's control of the city.

The "police control" provision.

Thus the code gave the cities a general endowment of home rule which the central government proceeded to whittle away. They did it in a way that could be plausibly defended. Bad housing is notoriously a cause of crime, they said, and to that extent housing is a police matter; hence the housing regulations of the city authorities are within the scope of the central government's police supervision. So with other things which had a relation to the maintenance of the public safety. It was not necessary to amend the code or openly to take away the city's authority in any field. An expansive interpretation of the national government's right to supervise the local police was ample to secure the end. During the years preceding the war, therefore, municipal home rule in Prussia became considerably restricted. Ostensibly the cities had the right to regulate their own affairs over a wide range, but in some fields of action this discretion was very narrow.

Control over local government during these years was exercised by the national government through the Prussian ministry of the interior. The head of this ministry was appointed by the crown and was not removable by the Prussian parliament. His duties included the supervision not only of city government but

How state control was exercised.

of local government in the provinces, districts, circles, and townships as well.

Like the other departments of the Prussian royal government, the ministry of the interior maintained a permanent staff of expert officials who assisted the minister in the consideration and decision of all matters which might come before him. The amount of work which this office was called upon to perform was very considerable, despite the fact that it dealt directly with the towns and cities in very few cases; its functions being performed, for the most part, through the authorities of the circle, district, and province.

In this connection it should be explained that Prussia before the war was divided into twelve provinces. At the head of each was a provincial president appointed by the king. This official corresponded in many respects to the French prefect, for he was not only the administrative head of his division but the local agent of the central government as well. In his work of supervising local government he was assisted by a provincial committee which was appointed, usually from among its own members, by a provincial assembly. This body corresponded roughly to the general council of a French department.¹ These twelve presidents executed ministerial instructions within their jurisdictions and exercised a general supervision over the district authorities.

Each province, again, was divided into districts and each of these districts had its president and its district board, appointed by the crown. The board was composed of permanent officials. It was with these district authorities that the Prussian cities came mainly into contact. When the exercise of any municipal function required the approval of the higher authorities, it was usually the district board that had to be approached. It was this body, for example, that decided conflicts between the two branches of the city council.

The districts, finally, were divided into circles (*Kreise*); but with the authorities of these sections only the smallest cities had anything to do, for any city of more than 25,000 population could be formed by ministerial decree into a circle by itself. That was done in the case of nearly one hundred larger Prussian cities, and in such cases the functions ordinarily performed

¹ See *above*, p. 334.

Relation
of the
city to the
province.

Relation
of the city
to the dis-
trict.

The
circles.

by the authorities of the circle were taken over by a committee of the municipal administrative board. Berlin did not deal with the central government through the authorities of either circle or district; its administration was supervised, on behalf of the national government, by the president of the province of Brandenburg.¹

Perhaps the most striking feature of the old municipal system (in Prussia, but not in the other German states) was the three-class system of voting. This electorate, according to the words of the code, was composed of all male German citizens twenty-four years of age or over who had during a period of one year fulfilled these three conditions:—(1) resided continuously within the city limits; (2) paid the regular municipal taxes; and (3) owned a dwelling house within the municipality, or pursued some substantial trade or vocation which yielded an income, or had been assessed for taxes. Furthermore, non-residents were allowed to vote if they had, within the year, paid a certain sum in direct local taxes; and corporations, if they satisfied the same requirement, were enrolled in the ranks of the municipal electorate and permitted to vote through their officers. There were some disqualifications, chiefly of individuals who were in receipt of aid from the public poor-relief bureaus.

The old
city elec-
torate.

On the face of things, the Prussian cities had manhood suffrage before the war, for virtually every male citizen over twenty-four years of age had a vote. But every voter did not have an equal vote. On the contrary the municipal code provided that the whole body of voters should be divided into three classes, roughly in accordance with the amount of taxes paid by them, and that each class should elect one-third of the city council. Thus the heaviest taxpayers formed class I, the moderate taxpayers formed class II, and the rest of the voters came

The three-
class
system.

¹The Prussian system of provincial, district and circle administration prior to 1918 may be studied in Karl Stengel's *Organisation der preussischen Verwaltung* (2 vols., Berlin, 1884); Conrad Bornhak's *Preussisches Staatsrecht* (3 vols., Freiburg-i-B, 1888-1890); and Hue de Grais's *Handbuch der Verfassung und Verwaltung in Preussen, etc.* (17th edition, Berlin, 1906). The texts of the various local government laws are printed in Gerhard Anschütz's *Organisationsgesetze der innern Verwaltung in Preussen* (Berlin, 1897). Descriptions of the system in English may be conveniently found in F. J. Goodnow's *Comparative Administrative Law* (2nd edition, New York, 1903), i, pp. 295-338; A. L. Lowell's *Government and Parties in Continental Europe*, i, pp. 308-377; P. W. L. Ashley's *Local and Central Government* (new edition, New York, 1922), pp. 133-153, and H. G. James, *Principles of Prussian State Administration* (New York, 1913).

in class III. The first class rarely included more than five per cent of the whole electorate and more than three-fourths of the voters found themselves in the third class. In view of the fact that each class elected one-third of the councillors, it was inevitable that the well-to-do voters, under this system, would always control a majority in council—which is what happened.¹

Some of
its ab-
surdities.

Sometimes this three-class system of voting had ludicrous results. In Essen, for example, there were only three voters in the first class, four hundred in the second, and more than twenty thousand in the third. Nevertheless the 403 voters out of 21,047 elected two-thirds of the councillors. A voter in the first class counted as the equivalent of nearly seven thousand voters in the third. The weight of a man's vote was determined by the amount of taxes that he paid. Even the chancellor of the empire, Prince Bülow, found himself in the third class while brewers and sausage-makers climbed into the first. Opulence was the measure of influence. In Berlin, before the war, there were about two thousand voters of the first class, while the third class contained more than half a million.

How this
plan was
defended.

This curious plan, which Bismarck once branded as "the most miserable and absurd election law ever formulated in any country", remained in operation down to the close of the war. It was defended on the ground that it provided a safeguard against wastefulness and extravagance in municipal government. The city is a business concern—so the defenders of the three-class system argued—a builder of streets and public works, a purveyor of water and gas, an employer of labor. Its organization ought, therefore, to approximate that of a business corporation, and in a business corporation all stockholders do not have equal voting power. The big stockholders have control. So, in choosing a city council which is merely the municipal board of directors, the heavy taxpayers ought to have more weight than those who pay only small sums into the public treasury. It is not fair that the few should provide most of the city's income and the many control the spending of it. That, in general, was the line of argument commonly used.

But there is a palpable flaw in all contentions of this sort

¹For a full explanation of this three-class system, see R. Grassman, *Das Wahlrecht der Städteordnung* (Stettin, 1876); I. Jastrow, *Das Dreiklassensystem* (Berlin, 1901); and the first edition of the present volume (New York, 1909), pp. 129-134.

which proceed on the assumption that all taxpayers contribute money from their own pockets. Much more frequently the taxpayer is merely transferring to the municipal treasury what he has collected from somebody else. And this is particularly true of the large taxpayers, the owners of valuable real estate. The owner of an office building or an apartment house, for example, is merely an agent who collects taxes from his tenants (as part of their rent) and pays the lump sum into the city's exchequer. In the last analysis his own contribution may be nothing or almost nothing at all. So it is with the taxpayers who own department stores, or factories, or great newspapers. Their customers or patrons or subscribers are the real taxpayers. The analogy between taxpayer and stockholder is on the surface only; it is not a true analogy. To say that the few people who serve as the unofficial collectors of taxes from the whole people should control the spending of the money which they have collected—the argument does not sound nearly so convincing when put in that form. So the three-class system of voting rested upon a false economic basis. Nevertheless it had many stalwart defenders prior to 1918, even in German university circles, and it was sometimes praised by foreign students of municipal government as a means of ensuring complete control by "the educated and thrifty classes", thus making the council a "splendid business machine".¹

But wholly apart from any considerations of economic theory and tax incidence the three-class system deserved Bismarck's characterization of it. In effect it disfranchised about three-fourths of the voters, for although they could choose one-third of the city councillors they could never, under any circumstances, hope to control a majority. Knowing this, a considerable proportion of them remained away from the polls. Hence the majority of the councillors, being chosen by men of wealth, became faithful mirrors of the business man's attitude toward public questions. They were keen for efficiency, economy, and business methods. They believed in administration by experts, in a close scrutiny of the budget, in everything that would cut the costs. On the other hand, the humanitarian aspects of municipal administration did not interest them much. Clean streets

Other objections to the system.

¹ See, for example, Dr. Albert Shaw's *Municipal Government in Continental Europe* (New York, 1897), p. 312.

in the business district seemed to be of more importance than playgrounds down among the tenements. Hence the foreign visitor who praised the "thrifty municipal housekeeping" of the Prussian city usually overlooked the lack of playgrounds for the children of the poor, the meagerness of facilities for public recreation, and the high infant death rate in the crowded sections. The efficient administration of a city is not merely a matter of applying the ideals and methods of the business man. It calls for the ideals and methods of the philanthropist as well.

Other
objection-
able fea-
tures.

Naturally the three-class system was not popular with the masses of the people, and the Social Democrats always opposed it strongly. But their protests availed nothing in the years preceding the war. They objected also to the system of open voting at city elections—for no printed ballots were used in Prussian municipal elections before the war. The different classes voted at separate polling places and on different days. There were no formal nominations. Every voter, when he came to the poll, was asked to state the name of his candidate. This the law required him to do "orally and in a loud voice" (*mündlich und laut*). Everybody in the room could hear him. There was no secrecy about it. Hence the door was thrown wide open to intimidation and wrongful pressure of all sorts. Looking backward, it seems amazing that such a system should have endured so long. The Social Democrats proclaimed that they would abolish the whole thing, root and branch, if they ever got the opportunity. They got the opportunity after the revolution of 1918 and redeemed their promises in full. In November of that year Prussia was transformed from a kingdom to a republic. One of the first acts of the new government was to inaugurate a system of universal, equal, direct suffrage, with the secret ballot and proportional representation.

2. The
property
qualifica-
tion for
office-
holding.

Another objectionable feature of the old municipal system was the requirement that one-half the councillors chosen to represent each of the three classes should be owners of real estate. If, after an election, it was found that this requirement had not been satisfied, the non-propertied councillors who had obtained the smallest number of votes were unseated and another election was held to fill the vacancies. This requirement did not mean much to the two upper classes, but in the case of the third class

it meant a great deal, for the third class contained a large number of voters who could have been elected and who would have made good councillors but for their lack of property. In Berlin, for example, less than five per cent of the third-class voters were owners of real estate and in the other large cities the proportion was not much larger. To evade the requirement, it became the practice of candidates to acquire small undivided interests in some one piece of property. A dozen of them would combine in purchasing a vacant lot or small house, each paying a few marks for his share and leaving it heavily mortgaged. But the administrative courts soon put an end to this evasion by ruling that sole ownership of some substantial piece of property was required by the spirit of the law.¹ Much dissatisfaction was caused by this provision, especially among members of the great industrial classes.² After the revolution it also was abolished.

The organs of city government in Prussia before the war were the council (*Stadtverordnetenversammlung*), the administrative board (*Magistrat*), and the burgomaster (*Bürgermeister*). In the largest cities there were two burgomasters, one assisting the other. The councillors were chosen by the voters under the system just described; the members of the administrative board were chosen by the council. There were two types of members in this board, paid and unpaid magistrates. The former were chosen for twelve years, the latter for six. In either case they were usually reappointed when their terms expired. Either a paid or an unpaid magistrate was the head of each municipal department, *e.g.* law, finance, public works, sanitation, and so on. For each department, moreover, there was a joint commission (Deputation) made up of a paid magistrate as chairman, one or more unpaid magistrates, several members of the council, and some citizens appointed by the burgomaster. These joint commissions, under the guidance of their respective chairmen, considered questions of departmental policy but had no final powers.

The burgomaster was chosen by the city council for a term

The old frame of city government.

1. The council.

2. The administrative board.

3. The joint commissions.

¹ *Entscheidungen des Oberverwaltungsgerichts*, XXXVIII, pp. 26 ff. The ownership had to exist at the time of the election, but a subsequent sale of the property did not serve to unseat a councillor.

² G. Dryander on "*Der § 16 der preussischen Städteordnung und die Hausbesitzer unserer Grosstädte*," in *Annalen des deutschen Reiches* (1903), pp. 430-450.

4. The
burgo-
master.

of at least twelve years and sometimes for life. The choice was subject to the approval of the higher authorities. In the smaller cities this confirmation was given by the authorities of the district; in the larger cities by the king of Prussia. Usually the approval was given as a matter of course, but sometimes it was refused. On one occasion the German emperor, as king of Prussia, delayed the confirmation of a burgomaster who had been chosen by the city council of Berlin. After a year's delay, during which the post remained vacant, the council made another choice, which was duly confirmed. This right to refuse confirmation was always a thorn in the flesh of the Social Democrats, for it meant that no avowed member of that party could ever hold the chief executive post in any Prussian city. In a few instances the city councils chose men of this party allegiance but in no case was confirmation granted.

What the
German
Revolution
changed
and what
it did
not change.

Nothing further need be said about the old framework of Prussian city government or the powers of the respective organs, for the reason that these have been continued without much change under the new dispensation. The cities still have their burgomasters, administrative boards, councils, and joint commissions.¹ The relations between them have been somewhat, but not greatly, altered. The most important changes have been in the organization of the electorate, the method of electing councillors, and in the general spirit of local government. Since the revolution the people as a whole have gained control of municipal administration and the days of domination by the large taxpayer have passed.

The
lessons
of the old
system :

In the rise and fall of the old Prussian municipal system the student of government may find some instructive lessons. A municipal system may be outwardly strong while inwardly weak. It may be highly efficient, yet not win the confidence of the people. Rapid growth and material prosperity may mask, for a time, serious defects in a political system. The growth of German cities during the era from 1890 to the outbreak of the World War was extraordinarily rapid. We are accustomed to think of the United States as a land of marvellous urban expansion, but city for city the Germans made virtually equal progress during these years.²

¹ See *below*, pp. 364-372.

² The following table shows in round numbers the increase in population

The industrial prosperity of the whole German nation and its great commercial development reflected themselves in the factory and seaport cities, which grew at an amazing rate. Nothing succeeds like success. When a nation or a city is growing both great and rich its government will claim, and will receive, a good deal of the credit. So the expansion and prosperity of the cities helped to make both Germans and outsiders oblivious to the fundamental weaknesses of the municipal system. If you were bold enough to question the basic soundness of this system twenty years ago, the officials always had a ready reply: "Look at our growth in population and wealth", they would say. "Look at our streets, our public buildings, our factories and stores, our residential sections, our parks, our schools and technical institutes, our water and sewerage systems, our street railways, our municipal abattoirs, and compare them with those of other countries."

1. Material prosperity is not necessarily an indication of satisfactory government.

The visitor looked—and usually agreed. The streets were models of cleanliness (especially those usually patronized by tourists); the police were intelligent and courteous; the whole atmosphere was one of businesslike and beneficent paternalism. Sometimes an American journalist, after he got back to the United States, would write a magazine article, or even a book, extolling the virtues of German city government and contrasting it with the sordid conditions which existed in the less enlightened municipalities of the United States. One illustration will suffice:

It may easily mislead the onlooker.

"Important as are the honesty and the efficiency of the German city, it is the bigness of vision, boldness of execution, and far-sighted of some typical German and American cities during the period 1890-1910:

CITY	1890	1910
Hamburg	569,000	953,000
Boston	448,000	671,000
Munich	349,000	595,000
Baltimore	434,000	558,000
Leipsic	335,000	586,000
Buffalo	255,000	424,000
Dresden	276,000	547,000
New Orleans	242,000	339,000
Hanover	163,000	302,000
Milwaukee	204,000	374,000
Cologne	281,000	511,000
Cincinnati	296,000	364,000
Breslau	335,000	511,000
Cleveland	261,000	561,000
Frankfort	180,000	414,000
Pittsburg	238,000	534,000

outlook on the future that are most amazing. Germany is building her cities as Bismarck perfected the army before Sadowa and Sedan; as the empire is building its warships and merchantmen; as she develops her waterways and educational systems. The engineer and the architect, the artist and the expert in hygiene, are alike called upon to contribute to the city's making. The German cities are thinking of tomorrow as well as of today, of the generations to follow as well as the generation that is now upon the stage. Germany almost alone among the civilized nations sees the city as the permanent center of the civilization of the future, and Germany almost alone is building her cities to make them contribute to the happiness, health, and well-being of the people. This seems to be the primary consideration with officials and citizens. It is this that distinguishes the cities of this country from the other cities of the world.

"The business men who rule them seem to think in social rather than in individual terms. They have a sense of team-play, of co-operative effort, of being willing to sacrifice their immediate individual interests to the welfare of the community. Cities co-operate with the state, they spend generously for education, they make provision for hospitals, for recreation, for housing the people. The city partakes of the spirit of the empire. It inspires a kind of loyalty I have never seen in any other country in the world. Germany is treating the new behemoth of civilization, the modern industrial city, as a creature to be controlled and made to serve rather than to impair or destroy humanity. She is doing this through city planning, the new art of city building, through education, through sanitation and hygiene, by uniting the expert with the administrator, and by making science the handmaiden of politics."¹

This was written only a year before the outbreak of the war, yet how strangely it must sound to the ears of German Social Democrats today!

2. Efficiency alone does not justify a system of city government.

There can be no question about the high degree of administrative efficiency attained by Prussian cities during the pre-war era. Their affairs were conducted with scrupulous honesty, and strictly in accordance with the best business methods. There was no wasting of the public money; every pfennig was accounted for. Nowhere in the world did the people get better value in actual service for the taxes levied upon them. Americans often marvelled that these cities could keep their streets so well paved and so clean and yet spend so little money in doing it. They commented on the absence of scandals in Prussian city administration

¹ Frederic C. Howe, *European Cities at Work* (New York, 1913), pp. 4, 7.

and on the fact that the German vocabulary contained no equivalent for "graft"—because the thing itself was virtually unknown. When American students of municipal government went to Berlin they were shown over the sewer farms and through the civic abattoirs (from both of which the city was said to be making a profit) and were greatly impressed by the efficiency with which everything seemed to be done. They thought of the Tweed rings and gas rings and traction rings, the boodle aldermen and the forty thieves, the Ruefs and Crokers and Coxes, the heelers and the hinky-dinks who dominated the affairs of their own large cities—and told the German that he had reason to be thankful. Here were cities with the sort of government which the American municipal reformer was hoping that his own country might some day be able to obtain!

But efficiency, as the outcome proved, is not the only desideratum in city government. It is not enough that government shall be "for the people". It must be of the people and by the people as well. It matters not how honest a government may be, or how economical its operations, or how expert its personnel, or how high-minded its appointive officers; these things will not ensure the permanence of a municipal system if it is carried on without due responsiveness to the wishes and desires of the people as a whole. Honesty and skill are much to be desired in all governments, but they are not enough. Intelligent human beings are not permanently satisfied, anywhere or under any conditions, with a government that does not carry a consciousness of popular consent. They will even prefer misgovernment of their own manufacture to efficient government imposed upon them by somebody else. That is a trait of human nature. Perhaps it is an unfortunate one, but it is one that cannot safely be disregarded. A government responsive to the will of the whole people must serve at times a very capricious and errant master, but it is the only form of government that can hope to maintain itself in this twentieth century.

When the German imperial and royal governments collapsed in November, 1918, the Social Democrats took control of Prussia and proclaimed a republic. In the cities the councils of soldiers' and workers' deputies, formed on the soviet model, sought to take possession of the municipal government and in some cases succeeded. For a time no one knew who was in control. But

Respon-
siveness
to popular
control
is equally
or even
more
important.

Collapse
of the old
order in
November,
1918.

gradually the more moderate element among the revolutionaries obtained the upper hand and the situation was stabilized. For the most part the old city officials were put back at their desks and told to carry on. Then, by various governmental decrees, the new republican authorities of Prussia made such changes in the old municipal system as seemed necessary to secure conformance with the new constitution of the Reich, and with the republican constitution which Prussia adopted in 1920. It was the belief of the new Prussian authorities that the old *Städteordnung* ought to be thoroughly revised, and steps were presently taken in this direction. A new municipal code was drafted and laid before the Prussian Landtag, or parliament. But various ministerial crises prevented final action on this measure and thus far it has not yet gone into force. Although considerably amended in some of its provisions, and administered in a new spirit, the old code of 1853 is still the basis of Prussian city government.

In the other German states, such as Bavaria, Baden, Saxony, Württemberg, etc., the Revolution took a somewhat similar course. The old royal or ducal governments were supplanted by republicans. The city governments were in some disorder for a time but were presently restored to the old basis, with some liberalizing of the system, or were reorganized under new municipal codes. Baden, for example, adopted a new code of local government in 1921, and Saxony in 1923. The essential features of the new municipal system in Prussia and in these other states will be described in the next chapter.

CHAPTER XX

GERMAN CITY GOVERNMENT TODAY

The new republican constitutions which were adopted by Prussia, Bavaria, Saxony, and the other German states after the revolution contained in every case a declaration in favor of municipal home rule. The Prussian constitution of 1920, for example, stipulates that "municipalities and groups of municipalities have the right of local self-government in their affairs under the supervision of the state as may be determined by law".¹ But such provisions will mean much or little as the state legislatures in years to come determine, for the right of the state to supervise the affairs of the city can be extended into a large degree of central control and still keep within the wording of this home rule clause of the constitution.

General effects of the German Revolution on city government.

Nevertheless the German revolution of 1918 embodied a powerful reaction against the rigid central control which had existed under the old régime and it is not probable that the legislatures will again attempt a similar domination. The popular demand for a reasonable degree of municipal home rule is too insistent to be disregarded. The municipalities will be subjected to less paternalism in the future. At the same time it ought not to be assumed that the German city, under the new dispensation, has been entirely set free to regulate its own affairs in its own way, and wholly exempted from control by the higher authorities. Central supervision has been relaxed, but it still exists in a very comprehensive measure.

After order had been restored by the republican authorities in the various states during 1919, decrees were issued making such changes in municipal organization as seemed to be necessitated by the new order of affairs. For example, the new federal constitution (Reichsverfassung) adopted at Weimar on July 31,

The immediate changes.

¹ Article 70. An English translation of the new Prussian constitution may be found in H. L. McBain and Lindsay Rogers, *The New Constitutions of Europe* (New York, 1922), pp. 217-232. A useful commentary on it is Ludwig Waldecker's *Verfassung des Freistaates Preussen* (Berlin, 1921).

1919, stipulated that "the representatives of the people must be elected by the universal, equal, direct, and secret suffrage of all German citizens, both men and women, according to the principles of proportional representation." This general principle, it went on to provide, "must also apply to municipal elections, but by state law a period of residence in the municipality may be imposed in such elections". So sweeping a provision in the new federal constitution made it necessary for all the states to establish (a) universal suffrage, (b) secret voting, and (c) proportional representation. In Prussia it naturally involved the abolition of the old three-class system.

The new
codes.

Later, when the new parliaments of the various states had obtained an opportunity to go into the whole question of local government more thoroughly, they turned their attention to the general revision of the old municipal codes, or, in some cases, to the framing of entirely new ones. These revisions and new codes differ considerably from one another. In some cases there was a radical departure from the old municipal system—in Bavaria, for example, where the *Stadtratsystem* or conciliar form of administration was inaugurated.¹ In Prussia, as has been said, a new *Städteordnung* was prepared in 1923, and it is in many respects a very interesting document, but it has not yet been enacted into law nor is there any certainty that it will be.²

Autono-
mous and
delegated
affairs.

Perhaps the outstanding feature of this proposed municipal code of Prussia is the attempt to make a clear distinction between autonomous affairs (*Selbstverwaltungsangelegenheiten*) and delegated affairs (*Auftragsangelegenheiten*). Autonomous affairs are defined as those which relate to "the common welfare of the local community". They are to be administered by the community on its own responsibility. Delegated affairs are defined as "those tasks of the Reich or of the state which are by

¹ See below, p. 363.

² Bavaria adopted laws which modified the system of central control (*Gesetz über die Selbstverwaltung*, May 5, 1919) and reformed the electoral methods (*Gemeinde-Wahlgesetz*, November 4, 1924); Saxony adopted a new *Gemeindeordnung*, August 8, 1923 (amended July 15, 1925); Württemberg made some important changes by the laws of March 3, 1919, and of July 27, 1921; Baden adopted a new municipal code on October 10, 1921; Thuringia (a newly created state of the Reich) adopted a *Gemeinde-und-Kreisordnung* on July 20, 1924. So with all the other states. A tabular summary of these revisions and new codes, compiled by Dr. Meyer-Lülmann, may be found in the *Zeitschrift für Kommunalwirtschaft*, vol. xv, No. 2 (January 25, 1925).

law entrusted to the community for execution in the manner prescribed". In other words, it seeks to establish a broad distinction similar to that which has become familiar in American home-rule states. But in attempting to indicate a line of demarcation between the two fields of jurisdiction, the proposed Prussian municipal code runs into precisely the same difficulties. For example, it includes local police administration as one of the "delegated affairs", but it does not make clear the extent to which this branch of administration shall extend. It leaves to the state authorities an opportunity to claim jurisdiction over various matters which are indirectly connected with the maintenance of law and order. Police.

Then there is the matter of municipal revenues. The framers of the proposed new code did not see their way clear to include taxation among autonomous affairs. Municipal finance is made dependent on the exigencies of federal and state finance. There seemed to be no other alternative, because the heavy burdens laid upon the Reich by the Treaty of Versailles and by the Dawes Plan make it essential that all public resources, of whatever sort, shall be rigidly controlled and conserved. It would be disastrous to give the local governments a free hand in the raising and spending of money, thus impairing the sources which the Reich may draw upon for the settlement of its heavy obligations. Local autonomy in matters of finance has therefore been considerably limited. Finance.

Yet such matters as police power and finance are almost the essentials of true municipal home-rule. If these are under strict control from above it is obvious that true home rule can hardly be said to exist. There is little that a city can do without spending money. It cannot spend money unless there is power to raise it by taxation or otherwise. By holding the purse strings the higher authorities necessarily retain a large measure of control over all local activities. "Without a largely municipalized police", says one critic of the code, "the cities live but half a life. Without a satisfactory solution of the tax problem they are condemned to debility and decay—yet the communities are the living cells of the body politic."¹

In any event the proposed new code has not yet been enacted.

¹ Dr. Walter Norden in the *Preussisches Verwaltungsblatt*, vol. xliii, No. 37 (June 17, 1922).

Its adoption would not greatly change the present framework of Prussian municipal government, inasmuch as the proposed code is for the most part a summary of the existing laws and decrees. Complaint has been made in various quarters that it is nothing more than that—but it at least tries to make clear certain municipal privileges which were not fully recognized under the old order. Meanwhile the Prussian cities continue to be governed under the old codes,¹ considerably modified by the laws and decrees which have been promulgated during the intervening years, especially since 1918.

Legal
status of
the Ger-
man city.

In all the German states the municipality (*Stadt* or *Gemeinde*) is a public corporation at law, with the right to perpetual succession, to sue and be sued, to hold property, to make contracts, and to exercise the other rights of a public corporation. Like the American city, it obtains its charter from the state. The grant is now made by decree of the ministerial authorities in accordance with the provisions of law. Each city charter must in all its essential features conform to these provisions.

Its general
powers.

What general powers are conferred on the German city by these various laws and charters? Briefly stated, the city authorities have power to make regulations on matters of local concern, to frame and adopt a budget, to levy taxes in a manner determined by the special tax laws of the Reich and the state, and to borrow money on the city's credit. They are empowered to provide and maintain local services of all kinds—streets, bridges, public buildings, public lighting, parks, playgrounds, and other recreation facilities, a public water supply, and a sewerage system. They have general control of police, of fire protection and of housing. They are responsible for the care of the public health. They are permitted, and indeed encouraged, to take over and operate the various public utilities such as gas, electricity, and street railway plants.² They have various duties connected with the school system and with a host of social wel-

¹ The *Städteordnung* of 1853 for the six eastern provinces, and the two codes of 1856 for Westphalia and the Rhine Province. As will later be noted (pp. 362-363) the cities of the former region have a *Magistratsverfassung*, while those of the latter have a *Bürgermeisterverfassung*.

² In addition the German cities are permitted to organize such utilities on a company basis, the entire capital stock being owned by the city—something that the American city is not allowed to do. See the pamphlet on *German Cities Since the Revolution of 1918*, by Dr. Mitzlaff, former Chief Burgomaster of Berlin, printed as a supplement to the *National Municipal Review*, November, 1926.

fare enterprises. Police administration, as has been mentioned, is mainly in the hands of the local authorities but subject to state supervision. Finally, the German cities have been given various powers which American municipalities are not ordinarily permitted to exercise—for example, the maintenance of municipal theatres and concert halls, and the construction of workmen's dwellings. They also have broad powers in relation to zoning, billboards, and the maintenance of civic beauty,—powers which would be unconstitutional if exercised by any municipality in the United States.

This vesting of comprehensive powers in the hands of the municipal authorities is made possible by the agencies of supervision which still exist and are active, despite the enlarged measure of local independence which has resulted from the revolution. The Prussian minister of the interior is the head of this supervisory system. He is a member of the ministry, appointed by the minister-president, or prime minister. The lower house of the Prussian parliament (*Landtag*) elects the prime minister and he in turn chooses his colleagues.¹ The prime minister determines the general principles of governmental policy and is responsible for them to the *Landtag*. Within these principles each minister, including the minister of the interior, is authorized by the Prussian constitution "to carry on independently the branch of administration entrusted to him", but he is likewise individually responsible to parliament. The minister of the interior is assisted by a staff of permanent officials—legal and financial, who attend to the details of supervision and give him their advice when called upon. In most cases, however, the minister does not deal with the cities directly; there are various intermediate authorities—those of the province, the district, and the circle.

Central supervision: the minister of the interior.

Prussia is now divided into fourteen provinces, the city of Berlin constituting one of them.² These provinces vary greatly in size, from Brandenburg with 15,000 square miles to Hohenzollern with only 441. Berlin has nearly four million population,

The provincial authorities.

¹"The *Landtag* shall elect the minister-president without debate. The minister-president shall appoint the other ministers of state." Prussian Constitution of 1920, Article 45.

²The provinces are East Prussia, Brandenburg, Berlin, Pomerania, the Border Province (Grenzmark, Posen, West Prussia). Lower Silesia, Upper Silesia, Prussian Saxony, Schleswig-Holstein, Hanover, Westphalia, Hesse-Nassau, Rhine Province, and Hohenzollern.

while the Border Province has less than 350,000. Each province has an *Oberpräsident*, appointed by the state ministry (*Staatsministerium*), also an elective provincial assembly which appoints an executive committee (*Ausschuss*), usually from its own membership. In a general way the *Oberpräsident* and the assembly correspond to the prefect and general council of a French department, although their powers of supervision over local government are not now so extensive.

The
district
authori-
ties.

The province is divided into government districts (*Regierungsbezirke*) with a president at the head of each, and a district board, both appointive. The board is made up of permanent officials, members of the national civil service. It is with the district authorities that the cities have chiefly to deal when matters requiring higher approval arise; but there is usually an appeal from its rulings to the provincial authorities and in some cases to the minister of the interior at Berlin.

The
circles.

Finally there are urban and rural circles (*Kreise*). A rural circle is a group of villages or manors. Every city of 25,000 inhabitants or more forms an urban circle by itself, but where cities are smaller they are grouped together. A large city may constitute a circle, and Berlin is big enough to constitute a separate province. It is through these various divisions and authorities that oversight is exercised. With respect to matters which necessitate higher approval, the laws prescribe which official or body of officials shall give it in each case,—whether those of the circle, district, or province. In case of any controversy as to jurisdiction the administrative courts decide the issue.¹

The general organization of German city government differs from state to state, and there are some differences even as among the various Prussian provinces. Roughly, however, the whole German municipal system falls into three great divisions. First, there is the *Magistratsverfassung* area, comprising most of Prussia, and a few other areas. In these regions the cities have a burgomaster, an administrative board (*Magistrat*), and an elective city council. This is known as the “magisterial” type of government, because administrative action is taken by majority

¹ Further information concerning these local government areas in Prussia, and in the other German states, may be conveniently found in G. Montagu Harris, *Local Government in Many Lands* (London, 1926), pp. 101-134.

vote of the magistrates. These cities have a plural, not a unitary, executive, for the burgomaster (save in certain special matters) must carry out the decisions of the administrative board. Second, the *Bürgermeisterverfassung* area, which comprises only the Rhine Province. Here there is a burgomaster and an elective city council but no regularly organized *Magistrat*. The burgomaster has a number of assistants (*Beigeordneten*), but his administrative powers are exercised on his own responsibility. His position is somewhat analogous to that of the American mayor, hence this scheme is sometimes known as the "mayoral" form of government.¹ Finally, there is the *Stadtratverfassung* area, comprising more particularly the various South German states (Bavaria, Württemberg and Hesse). The cities in these states have a single organ of government, usually made up of two elements—appointive magistrates and elective councillors.² This is sometimes termed the "council" form of government.

It would not be practicable, within the limits of this chapter, to describe each of these municipal systems fully. Prussia is the largest German state, being larger than all the others put together. This fact alone gives her system of city government a first place in point of importance. Let us examine, therefore, the organization of Prussian city government as it has been continued under the republic.

Organiza-
tion of the
Prussian
city.

The central and dominating organ, as in England, is a city council elected by the people for the term of four years. Any voter of twenty-five or more years of age is eligible. The suffrage extends to all adult German citizens, men and women, who have resided in the city for at least six months. Their names are inscribed upon a voters' list which must be revised and brought up to date before each election. The election is direct and by secret ballot. Every voter has one vote and one vote only. The city is divided into election districts and precincts as in the United States, and the election must take place on a Sunday or a legal holiday. In counting the votes a system of proportional representation is used. Disputed elections are decided by the

The elec-
torate.

¹ W. H. Dawson, *Municipal Life and Government in Germany* (London, 1914), pp. 86-87.

² For the details, see the Bavarian *Selbstverwaltungsgesetz* of 1919, especially Articles 6 and 84, modifying the Bavarian *Gemeindeordnung* of April 29, 1869; also the Baden *Gemeindeordnung* of October 10, 1921, Article 18; and the Württemberg *Gemeindewahlgesetz* of March 15, 1919, Article 3. In Württemberg the magistrates are chosen by voters, not by the city council.

newly elected council, with an appeal in certain cases to the administrative courts. In case a councillor-elect is unseated, or in the event of his refusal to accept office, no new election is held. The next candidate in order at the regular election steps into his place.

The city council.

The size of the city council depends upon the population of the municipality. The smallest city has a council of eleven members; cities having more than five thousand inhabitants may elect an additional councillor for every one thousand, or two thousand, or ten thousand inhabitants, as the case may be. The larger the city the more population is required to warrant an additional councillor. A change in the size of the council can only be made at the time of an election, not during the interval between. City councils in Prussia are thus much larger than in American municipalities of corresponding size, but in general they are not relatively larger than town councils in England. They are deliberative and policy-determining bodies, with no routine administrative functions.

Meetings.

In the larger cities the council ordinarily meets once a week, except during the summer months. Additional meetings are summoned when needed, and when the annual budget is under consideration they are needed often. The Berlin council meets once a week in the afternoon (except during the months of July and August) and sessions ordinarily continue from five till eight o'clock; but sometimes the pressure of business prolongs the sitting till midnight. In the practice of holding short meetings at frequent intervals, the Germans follow the plan in vogue in England and the United States as distinguished from that followed by the city councils of France and the other Latin countries, where sessions are held at considerable intervals and are sometimes prolonged over several weeks. The municipal code sets no limit to the frequency and duration of council deliberations nor does it, like the French municipal law, make any hard and fast rules as to the topics which may be discussed. The Prussian council itself, through its rules and its chairman, controls the scope of its own discussions without interference by the higher powers. Like the French council, however, it is subject to dissolution by decree of the state ministry.¹

Frequent short sessions.

No strict limitations on the scope of its deliberations.

The council usually meets at the city hall (*Rathaus*) and in

¹ *Städteordnung* (1853), Article 79.

the council-room are also provided accommodations for the members of the administrative board or *Magistrat*, who have a right to attend all council meetings and to speak upon any question under consideration, but not to vote. At every session some members of the *Magistrat* are usually present, and they may be called upon to discuss any matter of municipal administration. The meetings of the council are open to the public, but closed sessions may be held when necessary. In the larger cities considerable public interest is manifested in the proceedings, and when questions of importance are under discussion at open meetings this interest is shown by the attendance of many spectators.

Members of the *Magistrat* are present at council sessions.

Meetings are public.

The city council has some regular committees of its own, but unlike the committees of an English town council they have nothing to do with the details of administration. The latter are handled by joint committees (*Deputationen*), the organization of which will be explained a little later. Action is taken in the council by majority vote on all matters. In case of a tie the motion is lost, for the presiding officer does not have a casting vote. The voting is open, but on demand of a majority of the council a secret ballot may be taken on any question. Violations of the rules may be penalized by the suspension of a councillor for three sessions. Councillors are debarred from voting on any matter in which they have a pecuniary or personal interest.

Committees.

The city council elects the burgomaster. On the first ballot a clear majority of those present is required. But if no one obtains a majority, a second ballot is taken and on this occasion the choice is restricted to the four candidates who stood highest on the first ballot. If on this second ballot no one of the four obtains a majority a third ballot is taken to decide between the two highest. In the event of a tie, the issue is then decided by lot. Protests against the validity of the choice are determined by the higher authorities. In any event the choice must be submitted to them for ratification. In the case of smaller cities this approval is given by the authorities of the district; in the case of large cities by the Prussian state ministry.

It elects the higher administrative officials.

After each meeting of the council the record of the proceedings (*Protokoll*) is signed by the chairman and by at least three of the members present. All the resolutions are transmitted to the *Magistrat* unless they happen to relate to matters wholly within

Minutes and records.

the jurisdiction of the council—and of this kind there are very few. It is also customary in the larger cities to issue in printed form after each meeting a stenographic report of the council's proceedings, a copy of which is given to any citizen who applies for it.

The administrative board (*Magistrat*).

In cities which have an administrative board (*Magistrat*), as most of them do, the city council elects the members of this body. It should be explained at this point that the code permits cities of no more than 2500 inhabitants, if they so desire, to do without an administrative board altogether. In that case the burgomaster assumes all the functions which otherwise would pertain to the board, but does his work in coöperation with the committees of the city council. Most of the larger cities continue to have an administrative board.¹

Its two classes of members.

The size of this administrative board or *Magistrat* is fixed by resolution of the city council. It contains two classes of members—paid and unpaid. The paid members are elected by the council for twelve years; the unpaid members are chosen after each council election; that is, they have a four-year term. In selecting the paid members, the council has a wide freedom of choice. It is not restricted to inhabitants of the city but may choose any qualified candidate from outside. Unpaid members of the *Magistrat* must be chosen from residents of the city itself and anyone who is qualified to be a city councillor is eligible.

Paid magistrates.

The paid magistrates are professional administrators chosen for their special skill and capacity. They give their whole time to the service of the city and are well paid. Their salaries vary in amount according to the size of the city and the importance of the work which they are required to perform. In all Prussian cities they receive pensions when they retire from the service of a municipality: after a single twelve-year term a magistrate may retire on half pay, or at the close of his second term he may retire on full salary. It is not so much the actual salary, therefore, as the security of tenure and the liberal pension on retirement which serve to make the post of paid magistrate in a Prussian city attractive to men of administrative skill and experience.

Work of the paid members.

Every paid member of the administrative board is selected because of his technical ability in some department of city

¹ The chief exceptions in Prussia are the cities of the Rhine Province.

administration and each is, upon election, assigned to this particular branch. In every large city, for example, one paid member of the *Magistrat* fills the post of *Kämmerer*, or head of the city's financial affairs; another acts as *Syndikus*, or head of the legal department; a third as *Schulrat*, or chief of the local system of primary education; a fourth as *Baurat*, or superintendent of the city's public works, and so on. One has the system of poor relief in special charge, another the city's sanitary system, another the hospital service. In the larger cities a division is frequently made between different types of public works and utilities, with a paid member of the *Magistrat* assigned to each. Hence the *Hochbaurat* and the *Tiefbaurat* who figure in the lists of official personnel.

When any large city desires to add to the number of its paid magistrates or to fill some paid post in the administrative board which may have become vacant, the city council sets out to find some one who possesses the particular qualifications required. The usual course is to advertise the fact that applications for appointment to the office will be received and considered; the advertisement usually stating the amount of salary offered, the provisions in regard to pension, the duties to be performed, and the qualifications expected. These qualifications differ, of course, according to the character of the post to be filled. Candidates for the office of *Syndikus* must have had a certain prescribed legal training and as a matter of custom (though not a legal requirement) candidates for any technical post must have had the requisite amount of technical training and experience. Applications sometimes come from unpaid magistrates, occasionally from persons in civilian life, and frequently, in a large city, from men who have filled similar posts in smaller municipalities and who think that their work entitles them to promotion. In any case all the applications are carefully considered, the records and qualifications of candidates are examined, and the list is then voted on by the council. Three ballots are taken, if necessary, as in the case of electing the burgomaster. The Prussian city, in short, selects its paid members of the *Magistrat* by substantially the same procedure that is supposed to be followed in the selection of an American city manager or a superintendent of schools. Party considerations do not often determine the choice, but they have had a greater influence since the World War

How paid
magis-
trates are
secured.

Technical
qualifica-
tions
demanded.

than before it. The party groups in the city council are now considerably influenced by the political affiliations of an applicant; on the other hand this influence rarely avails of itself to secure the selection of anybody who is not properly qualified. When the selection is made the name of the new magistrate must be submitted to the higher authorities of the district or province for ratification.

Unpaid
magis-
trates.

The unpaid magistrates are not chosen for special aptitude in particular branches of municipal administration but for their general administrative interest and capabilities. The law prescribes no special qualifications in the case of these unpaid magistrates save that they shall be residents of the city qualified for election as councillors. The council may choose them from its own ranks and sometimes does so. The selection of the unpaid magistrates is made immediately after a new council has been elected and the voting is conducted in accordance with the principles of proportional representation. Both paid and unpaid members sit together and have equal voting power. Both have the right to attend all meetings of the city council or its committees and to take part in the discussions, but they do not vote on any question. They may be summoned to council meetings and must respond in person. The administrative board (paid and unpaid members together) holds regular meetings, with the burgomaster in the chair. It has no regular committees.

Importance of
the *Mag-*
istrat.

Under the old dispensation, prior to 1919, the *Magistrat* was in many ways the more influential branch of the municipal legislature. Virtually all important business was first considered by it, and the city council had relatively little initiative. Even yet it prepares most of the business which comes before the council; indeed, the council frequently asks the *Magistrat* to put matters in shape for presentation to it. Every action taken by the city council must be communicated to the *Magistrat*, which has the duty of carrying the action into effect. And it is still essential that both bodies shall concur in order to make the action valid.

Collective
and indi-
vidual
functions.

The functions of the *Magistrat* are both collective and individual. As a body it submits proposals to the council and carries out the council's instructions. As individuals, the members of the *Magistrat* serve as the titular heads of the various administrative departments. Their work is apportioned among them by the burgomaster, but in the case of the paid members

it is virtually determined at the time of their election. Still, the individual member of the *Magistrat* does not have full discretion in determining how the work of his department shall be carried on, except in routine matters. On important questions of method he is subject to the supervision of the *Magistrat* as a whole, and he must also be governed by the advice of the joint commission (*Deputation*) which is associated with him.

These joint commissions or administrative committees (*Deputationen* or *Verwaltungsausschüsse*) are very important factors in Prussian city administration. There is one of them for each administrative department—finance, public works, water supply, sanitation, parks, schools, and so forth. After each municipal election the members of the joint commissions are named by the city council. The membership of each commission usually includes a paid magistrate as chairman, one or more unpaid magistrates, several members of the city council, and some non-official citizens as well. Any citizen who is qualified to be a councillor may be named. Sometimes the joint commission has as many as twenty members; in other instances it has only five or six. The council may, if it chooses, appoint no outsiders to a commission, but it rarely takes this course. In any case, the joint commission holds frequent meetings and discusses matters laid before it by the chairman. In matters of routine and detail its action is virtually independent, but on all important questions its decisions must be ratified by the *Magistrat* as a whole.

The Prussian joint commission does not correspond either in organization or in functions to the appointive board which is a familiar feature of the American municipal system; nor is it analogous to the council committee which, in the English borough, assumes immediate charge of some particular field of municipal activity. It is rather a combination of these two types. Like the American water board or park commission, it contains members who do not belong to the city council and who have not been chosen by the people at the polls; but, unlike the latter, it is directly responsible to the city council and has been constituted by it. Like the education committee in the English borough it contains both aldermen, councillors, and outsiders; but, unlike the latter, it does not have final powers on any matter of importance. It is not a statutory joint committee, in the

The joint commissions (*Deputationen*).

The joint commission has no exact analogy in municipal systems of other countries.

English sense, with a definite range of powers committed to it by law.

In the larger Prussian cities it has long been felt that some method of decentralizing administrative work ought to be devised. Consequently the proposed new municipal code adopts the idea of dividing such cities into administrative districts or wards. In each such district, according to the terms of this proposal, there would be a district president and a vice-president appointed by the city council from among residents of the district. These officials would be heads of the district administrative headquarters, and under them would be the members of the municipal civil service operating in the district. The plan contemplates the giving of more flexibility to the city's administrative work by somewhat decentralizing it, as is done in the boroughs of New York and London as well as in the *arrondissements* of Paris.

The
Bürger-
meister.

The burgomaster remains, as before 1918, the titular head of the municipal administration and the most outstanding figure in it. Prior to the war he was often chosen for a life term but he is now named for a term of not more than twelve years, with the understanding that he will be reappointed if his work is satisfactory. Every Prussian city has a burgomaster and the larger cities have two.¹ The city council, in choosing these officials, is not restricted to residents of the city. It may appoint from some other city anyone who has the requisite qualifications. Sometimes the choice is made from among the paid members of the local *Magistrat* but more often, perhaps, the larger cities have taken their burgomaster from the smaller ones.²

¹ Prior to 1926, in cities of over 30,000 population he usually had the title "Oberbürgermeister", while his junior colleague was known simply as "Bürgermeister". Under new parliamentary regulations the senior is now known as "Bürgermeister" and the junior as "Erster Stadtrat."

² It is by no means uncommon to find a German city advertising for a burgomaster. The following, which is clipped and translated from the *Zeitschrift für Kommunalwirtschaft* (January 25, 1925) is a typical example:

"NOTICE

"The office of First Burgomaster of the City of Salzwedel will presently become vacant by reason of the election of the present incumbent to be First Burgomaster of the City of Tilsit.

"The salary of the office is that fixed for Class B cities under Section 12 of the Prussian salary ordinance. . . . Applicants are requested to forward statements of their experience, together with testimonials, to the undersigned prior to February 28, 1925. . . . Applications in person are not desired unless and until the City Council so indicates.

"THE CHAIRMAN OF THE CITY COUNCIL."

The burgomaster is often spoken of as the German mayor, but he is not a mayor in the English, French, or American sense. In these countries the mayor is merely a private citizen who takes the office for a year or for a few years with the idea of turning it over to somebody else at the end of this brief term. He does not expect to make the mayoralty a life job—although a few American mayors have tried to do it. The German burgomaster, on the other hand, is an official who looks upon municipal administration as his career. He has no other business and expects to stay in office, somewhere, until the end of his active life. He has a twelve-year term with the assurance that he will be re-appointed if his work is satisfactory, and in the smaller cities the successful burgomaster may look for promotion. He is an expert, a professional—in a word, what the American city manager is supposed to be.

His position.

The Prussian city council selects its burgomaster in much the same way that the American city manager is chosen—but with less emphasis on the desirability of securing a local man. It considers all the availables, whether residents or non-residents. Other things being equal, or nearly equal, the council usually gives preference to a resident of the city who has successfully served as a paid member of the *Magistrat*, but the selection of outsiders is by no means uncommon. It is less frequent nowadays, however, than it was before the Revolution. The choice, as has been said, must be confirmed by the higher authorities and in the old days this confirmation was sometimes refused on political grounds. It is now given as a matter of course. The burgomaster receives a liberal salary and is entitled to a pension. He is entitled to retire on half pay at the end of his twelve-year term. For every subsequent year of service he is entitled to one-sixtieth additional, but his pension at retirement must not exceed three-quarters of his salary.

Compared with the American city manager.

According to the letter of the law, the burgomaster's powers are very extensive. He conducts and supervises the whole course of municipal business and apportions it among members of the *Magistrat*. He prepares business for the consideration of this administrative board, presents it at the meetings, and carries the board's decisions into effect. In addition, the *Magistrat* may refer matters to the burgomaster with power. As a matter of practice many things are done by the burgomaster, or by in-

The burgomaster's powers.

The general harmonizer.

dividual members of the *Magistrat*, on their own initiative and are then confirmed by the board at its next meeting. With a dozen or more members of the *Magistrat* thus exercising their functions somewhat independently, and with as many joint commissions assisting them, there would inevitably be friction and overlapping were it not for the burgomaster's general oversight. He is expected to keep the whole administrative machinery oiled and functioning smoothly. Some cities, it will be recalled, have no administrative boards at all but devolve their work upon the burgomaster and his deputies (*Beigeordneten*), assisted by committees of the city council. In such instances the burgomaster becomes to all intents a city manager, with full and direct responsibility for the conduct of all the administrative services.

Appointments.

But there is one important power of the American city manager which the German burgomaster lacks (save in the Rhine Province); namely, the power to make appointments. There are two classes of administrative officials in a German city—honorary officials (*Ehrenbeamten*) and paid officials (*Besoldetenbeamten*). The former are in all cases chosen by the city council. The burgomaster and the magistrates are appointed by the city council also, but all other municipal officers and employees are appointed by the administrative board (*Magistrat*). The selection is not made by competitive civil service tests, as in many American cities. It is merely required that applicants for appointment shall have had certain specified instruction and shall have passed the qualifying examinations. In all cities except the smallest there are two qualifying examinations which must be passed before an applicant is eligible for appointment. These are of a general nature, and are not directly related to the work which the applicant will have to do after his appointment. With very few exceptions the appointments are for life, not for a term of years. The scale of salaries is fixed by the municipal authorities in accordance with general regulations laid down by state laws and ordinances. Suspensions and removals can only take place in accordance with a procedure which the state laws and ordinances prescribe.

The government of Greater Berlin:

Something should be said about the government of the German capital, for like the capitals of other countries it has a special form of municipal organization. Shortly before the war, in

1911, a somewhat loose federation of Berlin and its more important suburbs was established for the control of street railways, rapid transit lines, and for the acquisition of parks.¹ Later, during the war, various other special unions for definite purposes (*Zweckverbände*) were created for fuel control, housing, and so forth. The advantages gained from united action in these various matters gave impetus to proposals for the creation of a Greater Berlin, and after the close of the war the question became a live one.

How it
came into
existence.

In truth there was need for some consolidation of Berlin and her adjoining municipalities, large and small. The capital city, at the close of the war, had a population of slightly under two millions, while the immediately contiguous municipalities included about two millions more. In this one metropolitan area there were more than a hundred municipal governments—urban, rural, and manorial—all treading on each other's heels and getting into one another's way. The area was served by no fewer than seventeen water plants, forty-three gas plants, and fifteen electric lighting systems. No single authority could grant franchises for the whole area. In a word the situation was becoming very much like that which existed in London prior to 1888. Probably it would have been dealt with earlier had it not been for the distractions of the war. But there was also a difficulty in deciding what form of organization the greater city ought to have. Some of the leaders favored a municipal federalism like that of London; others urged the creation of a centralized metropolis on the New York plan. In the end a compromise was adopted.

The government of Greater Berlin rests on a special law passed by the Prussian Parliament in 1920. Included within the scope of the law are Berlin, Charlottenburg, Schöneberg, Köpenick, Spandau, Wilmersdorf, and other neighboring cities, together with fifty-nine rural towns (*Landgemeinde*) and twenty-seven manorial villages (*Gutsbezirke*), making a total area of three hundred and twenty square miles and giving the greater city a population of something more than four millions. This makes Berlin the third largest city in the world, with Paris and Chicago running about a million behind. In the metropolitan area the old municipal governments were swept away and twenty-one new governments were established in their place, namely, the central

The Law
of 1920.

¹ By the "Zweckverbandgesetz" of July 19, 1911.

or union government of Greater Berlin, and the governments of twenty administrative districts.¹

The central government of Greater Berlin consists of a burgo-master, who is the titular head of the metropolis, a second burgo-master (now known as first *Stadtrat*), an administrative board (*Magistrat* or *Stadtrat*) of not more than thirty members, and a city council (*Stadtverordnetenversammlung*) of 225 members, a veritable municipal parliament. The two burgomasters and the members of the administrative board are chosen by the city council. Some members of the administrative board are paid members; others are unpaid. The present proportion is just about half and half. The paid members are chosen for twelve-year terms, the unpaid members serve for four years only. In either case they are eligible to re-election.

The Berlin city councillors are elected on a basis of universal suffrage for a four-year term. The entire council is elected at the same time; there is no system of partial renovation as in many American cities. The election is conducted according to a system of proportional representation which may be briefly described as follows: The city is divided into fifteen electoral districts, twelve of them being identical in area with the administrative districts (*Verwaltungsbezirke*) mentioned below, while the remaining three are combinations of such districts. Each district is allotted a varying number of councilmen—from seven to nineteen. Now, when the time for an election approaches, the various political parties, or groups of parties, nominate their lists or slates of candidates in each district. Each party or political group also nominates a list for the whole city. On election day the voters, in the several districts, vote for lists or slates, not for individual candidates, and the list polling the highest vote gets the largest number of councilmen. Lists which poll a smaller vote get their proportion. The councilmen-elect are taken from the head of each list, and the number so taken depends on the size of the vote which the list has polled. A list

The central city government.

How city councilors are chosen.

¹ *Gesetz über die Bildung der neuen Stadtgemeinde Berlin* (April 27, 1920). For a general description of the union and its government, see the chapter by Dr. Scholz on "*Gross-Berlin*" in Paul Mitzlaff and Erwin Stein, *Die Zukunftsaufgaben der deutschen Städte* (Berlin, 1925), pp. 64-78. The law itself is printed in P. Wobling's book (see *below*, p. 422) and the more significant provisions of it are reprinted in Thomas H. Reed and Paul Web-bink, *Documents Illustrative of American Municipal Government* (New York, 1926), pp. 503-512.

which polls "the quota" elects one councilman; a list which polls twice the quota gets two councilmen, and so on. The quota is obtained by dividing 225 (being the whole number of councilmen) into the total vote cast at the election. If 1,800,000 votes have been cast at the election, the quota is 8000. A list receiving 24,000 votes in any district would have three of its candidates declared elected, their names being taken in order from the top of the list.

But there is a further complication. When the vote polled by each list is divided, as above described, there will usually be a remainder. The Social Democratic list, for example, will not have an even 24,000 votes, as in the illustration just given; but will have 26,458 votes or something of that sort—not enough to elect an additional councilman but nevertheless a considerable surplus. There will be some such surplus in each of the fifteen districts and when all these are added together they will suffice to elect some more Social Democratic councilmen,—as many as the quota will divide into the total. Again to make the matter more concrete let us suppose that the surplus votes polled by the Social Democratic lists in the fifteen districts, when totalled together, amount to 41,000. The Social Democrats would then be entitled to five councilmen in addition to those whom they had already elected in the various districts. These five would be taken from the list which the party had nominated for the whole city, the names being taken in order from the top of this list. This list of nominees, obviously, does not go before the voters at all. It is merely prepared for use in giving representation to the surplus votes of the districts.

The plan may seem rather complicated at first sight, but it is in reality quite simple. Every councilman represents a certain number of voters and belongs to a political party. He is entitled to a seat if his party can get that number of votes for him, whether in his own district or by the surplus votes of several districts. The outstanding feature of the system is that the voters mark their ballots for a slate, for a political party or group of parties, not for a candidate or for several candidates as such. Partisan nominations and party affiliations are openly recognized; indeed, they are made the cornerstone of the whole electoral edifice. As a matter of fact there is no non-partisanship in Berlin elections, or in the elections of any other Ger-

Merits of
the plan.

man city. Every political party puts its regular lists into the field.

The burgomaster and the administrative board.

As for the powers of the burgomaster, the members of the administrative board, and the city council, these are much the same as in other Prussian cities having the "magisterial" form of government.¹ Joint action by both bodies is necessary on any matter of municipal policy; the administrative board prepares business for the council and carries decisions into effect when they have been made. For each department there is a joint commission or *Deputation*. The making of appointments, the allocation of work, and the supervision of municipal business are as in the other cities.² The main difference is in the devolution of work from the central government of Greater Berlin to the governments of the twenty administrative districts or boroughs.

The district (or borough) governments.

The law of 1920 provided for the division of the whole metropolitan area into such administrative districts (*Verwaltungsbezirke*), somewhat after the fashion of the London metropolitan boroughs. Six of these districts are in Berlin proper; the others represent in part a continuation of old municipal boundaries, and in part an amalgamation of small towns and villages. For this reason the *Verwaltungsbezirke* of Berlin, like the *arrondissements* of Paris, the metropolitan boroughs of London, and the five boroughs of New York City, show a wide variation in both area and population. The two largest Berlin districts are Kreuzberg, which has 366,000, and Charlottenburg, which has 325,000 population; the smallest is Zehlendorf, with only 33,000. Future alterations of boundaries can be made by the central Berlin government with the consent of the districts affected.

The district council and board.

Each administrative district has a district council composed of those members of the central city council who have been elected by the district, together with a larger number of councilmen (from fifteen to forty-five) who are specially elected. The latter are elected at the same time as the central councilmen and by a somewhat similar system of proportional representation. This combination of central and local councillors ties up the two governments more closely than is the case in London.

¹ The details can conveniently be found in Körner-Brell's *Berliner Ortsrecht* (Berlin, 1925).

² *Above*, pp. 365-372.

In addition to its council, each district has an administrative (*Bezirksamt*) board of seven members, mostly paid, but some unpaid. The paid members are chosen for twelve years, and the unpaid members for four years, the choice in both cases being made by the district council. This district board is the agent of the central Berlin *Magistrat* and performs such functions as the latter entrusts to it. On the other hand, the central authorities consult the district boards on many matters and must do so in framing the municipal budget.

Each district also has a district burgomaster (*Bezirksbürgermeister*) and the larger ones have deputy burgomasters also. At the outset these officials were appointed by the central *Magistrat*, but as vacancies occur they are filled by vote of the district council. The district burgomaster (or, in his absence, his deputy) serves as chairman of the district board, and otherwise has the same powers as pertain to the office elsewhere.

The district burgomaster.

Concerning the division of functions between the central government of Greater Berlin and the several district governments the law speaks in very general terms. It provides that the districts shall be responsible "for the administration of such municipal services and establishments as are not directly administered by the *Magistrat*". In general, however, the central city government has jurisdiction over public works (including water supply and sewerage), transportation, parks, public buildings, schools, and public health. It also has charge of police in so far as the state government has delegated that function to it. The district governments, in the main, serve as local agents for the more efficient conduct of these services, but in addition they have some independent jurisdiction over minor municipal functions. They appoint their own officials. Any action of the district government can be vetoed, however, by the central *Magistrat* "if an urgent municipal interest so requires", but before this veto power is exercised the district burgomasters have the right to be heard. Both the central city government and the district governments have their own budgets, but both are voted by the central city government.

The division of functions between city and district governments.

Provision is made for the division of a district into precincts (*Ortsbezirke*) with a chairman (*Ortsbezirksvorsteher*) at the head of each. He may be either a paid or an unpaid official; in either case he is chosen by the district council and serves in his

The local precincts.

precinct as the agent of the district board. In addition, with the consent of the *Magistrat*, the precinct may have an elective council and this council, when constituted, may nominate candidates for the office of *Ortsbezirksvorsteher*. Thus is the central government brought close to each neighborhood of the greater city.

Summary.

The government of Berlin is federal in form but centralized in fact. It is not truly federal like the government of London. On the other hand, it is not so completely centralized as are the governments of Paris and New York. Its government is localized, with administrative functions disintegrated, to a greater extent than in the latter. To put it in another way, the Berlin government is based on the principle that the "control of municipal policy" should be centralized, while the "carrying out of municipal policy" should be localized. In keeping with this idea the budgets of the twenty districts total almost as much as the budget of the central city government. All this represents a very interesting experiment in metropolitan government and one that may well be watched with interest.

CHAPTER XXI

THE ITALIAN CITIES

The Roman empire, at the height of its power, rested on the Mediterranean. By far the greater part of it was comprised within the watersheds which drain north and south into this sea. The Mediterranean served as the main artery of communication with all parts of the far-flung Latin commonwealth; and without it neither the government, the commerce, nor the defence of the empire would have been possible.¹ Along the shores of the Mediterranean there were numerous cities, some of them with large populations. What is now the kingdom of Italy was a land of cities. They dotted the whole peninsula from Sicily to the Alps. We do not know a great deal about these Italian towns of antiquity because the Roman chroniclers paid little attention to them. They wrote much about Rome herself, her armies, her government, her public activities, and her daily life, but very little about the numerous *civitates* and *municipia* which were so greatly overshadowed by the City of the Seven Hills.

The ancient cities of Italy.

These towns of the Italian peninsula had a varying degree of municipal home rule in earlier days, and some of them were allowed to choose their own officials, but in the course of time they became mere administrative districts, chiefly for the collection of taxes, and their affairs were managed by curators appointed from Rome. During the later stages of the imperial period most of their old municipal autonomy disappeared.²

How they were governed.

Then came the barbarian invasions from the north, and by the beginning of the fifth century the whole situation of these towns had been changed. Roman provinces and cities were transferred into Germanic kingdoms and barbarian capitals. The Ostrogoths and the Lombards overran and conquered the whole of

The collapse of the Roman empire and its effects on the Italian cities.

¹ For an interesting discussion of the part which this great expanse of water played in the ups and downs of urban life, see the chapter on "The Mediterranean" in Henri Pirenne's *Medieval Cities* (Princeton, 1925).

² J. S. Reid, *The Municipalities of the Roman Empire* (Cambridge, Eng., 1913).

Italy. Historians have been accustomed to lay stress on "the barbarian dislike of town life" as the chief reason for the decay of the cities during the next few centuries; but Pirenne declares this to be merely "a fable to which reality has given the lie".¹ Some cities on the frontiers of the old empire were put to the torch, destroyed, or pillaged, but there is abundant evidence that most of the towns in the Italian peninsula survived the invasions. Many of them have persisted to the present day and their names hark back to Roman times.² The real reason for municipal stagnation during the centuries which followed the decline of Rome was the economic collapse which closed the channels of trade. Rome, in her days of power, policed the Mediterranean and made it safe from piracy. She built roads and guarded them. The invaders from the north were unable to do either. The trade routes, both by water and by land, became infested with pillagers. So the towns lost their economic base and during the long era from 500 to 900 they failed to make any substantial progress. It is improbable that any city of the Italian peninsula was able to register a gain in population during these four hundred years. Some of them dwindled into little villages, their streets grown rank with weeds and their public buildings crumbling into ruins. As for Rome herself, the emaciation of the Eternal City during these dark ages was tragic. The succession of barbarian assaults, together with pillage, famine, earthquakes, floods, and misgovernment—the long series of disasters brought her ancient grandeur to the dust. This mistress of the ancient world, with her population of nearly a million, dropped to a struggling town of about twenty thousand. Even today, after centuries of renewed growth, Rome has a smaller population than in the days of the Cæsars.

The end of the ninth century was the era in which the cities of the Mediterranean region reached their lowest ebb, the hour of black darkness that precedes the dawn. The tenth century, though not a time of noticeable recovery, was at least one of stabilization which foreshadowed the revival of commerce in the eleventh. Indications of this renaissance first appeared in Venice, Genoa, Pisa, Naples, and the other Italian seaports, but it soon

¹ *Mediæval Cities* (Princeton, 1925), p. 11.

² Thus Genna (Genoa), Mediolanium (Milan), Neapolis (Naples), Brindisium (Brindisi), Pisæ (Pisa), Nicæa (Nice), Bononia (Bologna), Florentia (Florence), etc.

affected Cremona, Lodi, Verona, and the inland towns, as well. Their civic life gained new inspiration from the economic prosperity. The Venetian fleet opened the Adriatic to commerce. The ships of Genoa and Pisa reëstablished communications between points along the whole north Mediterranean coast. And the Crusades, as they moved eastward, provided a stimulus to trade. Presently there appeared in the various Italian cities a merchant class which grew in size as the eleventh century progressed. And with this increase in wealth and population there came, albeit slowly at first, a partial restoration of municipal independence. Most of the cities had been denied this independence. They were ruled by the duke, or prince, or other territorial magnate through a subordinate official known as the *podestà* or ducal bailiff. But the day of reckoning came. The larger Italian communities eventually shook themselves free from outside control and became city-states, as Athens and Sparta had been.

It was the merchants who took the initiative, for they were the most active, the richest, and the most influential element in these cities. Democracy in the middle ages, as in modern times, got its impetus from the efforts of the few. Under the lead of the merchants some of the Italian cities established a consular type of government with the executive power in the hands of consuls, usually twelve of them. Assisting these officials was a council of citizens, but when matters of grave importance came up for decision it was customary to call a *parlamentum* or town meeting. All citizens had the right to attend this meeting, but citizenship in mediæval Genoa or Naples included only a small portion of the entire population. It took in the upper stratum only—the nobility and the members of the merchant guilds. Nevertheless there were times when the ruling classes got to quarrelling among themselves, each striving to align the people on their own side, and in this way the masses were sometimes given a share in the government. In some of the cities, in Milan for example, the municipal government assumed the form of a despotism vested in the hands of a ruling family. Mediæval institutions were rarely stabilized and never stereotyped. Changes in forms of city government took place as frequently as in twentieth-century America.

Italian
city gov-
ernment
at the
close
of the
Middle
Ages.

Down to about 1450 the Italian cities had a great geographical

The beginning of the modern period.

advantage as respects commerce with the East. They were in a position to serve as the carriers of trade between Western Europe and the Near Orient. Making good use of their opportunities they became very prosperous and were money-lenders to the rest of Europe. But the world-events which marked the close of the fifteenth century—the discovery of America and of the Cape route to India—these great discoveries soon relegated the Mediterranean to a subordinate place as a maritime highway. The course of seaborne commerce changed direction—from south-east to west. The Iberian peninsula gained and the Italian lost. Primacy in overseas trade passed to the cities of Spain and Portugal and later to those of Holland and Great Britain. These countries acquired colonies, and trade followed the flag. The heyday of the Italian cities came to an end through no fault of their own. By the close of the sixteenth century it was over.

Nor has this season of great prosperity ever returned. During the seventeenth and eighteenth centuries, when England and France were building up their colonial empires, the Italian territories remained disunited, warring with one another and paving the way for foreign intervention. Without unity and with no national power behind them, these cities could not keep pace with the growth of commercial centers like London and Amsterdam.

The last hundred years.

In due course, however, a movement for the unification of the whole Italian peninsula was set afoot, and during the first six decades of the nineteenth century it made progress in spite of what seemed to be insuperable difficulties. Foreign rulers were driven out one by one and eventually, in 1870, Italy achieved the completion of her unity under the House of Savoy, with Rome as her capital.¹ This inaugurated a new era and during the past half century the Italian cities have been coming to the front once more. Their industries and commerce have undergone a remarkable development during this period. Urban population has grown correspondingly. There are now four cities with populations exceeding half a million—Naples, Rome, Milan, and Turin. Ten others have populations above one hundred thousand, and there are no fewer than thirty-one with popula-

¹ The Italian kingdom was established in 1861. Venice was added in 1866, and Rome in 1870. From 1861 to 1864 Turin served as the national capital; from 1864 to 1870 the seat of political power was in Florence; since 1870 it has been in Rome.

tions exceeding fifty thousand. The average American rarely hears of Catania or Ferrara or Livorno, but these are Italian cities which rank in population with his own Albany, Denver and Spokane.

How are the Italian cities governed today? The existing system of Italian local government may be said to have had its beginnings in 1799, when Napoleon Bonaparte, after conquering the country, established in it the general type of local administration which the Revolution had ultimately given to France. This innovation did not prove permanent, however, for with the overthrow of Napoleon and the expulsion of the French from the peninsula the old order was restored. But not wholly so, for the kingdom of Sardinia-Piedmont kept what was best in the French system, developed it, and in time extended it over the new Italian kingdom. Subsequently the whole mechanism of local and provincial administration was revised and reenacted in codified form (December 30, 1888). Considerable revisions were made in 1908, and again in 1915. The last-named revision is still in force but various changes have been made in it, especially during the past few years. It is known as the Municipal and Provincial Code.¹

Present government of the Italian cities.

1. The municipal code.

Before taking up the organization and powers of the Italian city under the provisions of this general law, it may be well to indicate the way in which the kingdom is divided for purposes of local government and also the manner in which central control over the local authorities is exercised. The general scheme is quite similar to that which exists in France. In both countries the apex of the pyramid is the minister of the interior. This minister is a member of the national cabinet, chosen by the premier, and responsible to him.² His powers and functions are almost exactly like those of his prototype in France. He is re-

2. The system of central control over the cities.

¹ *Legge comunale e provinciale, 4 febbraio 1915*. There are several good commentaries on this code. The most convenient for general reference are F. D'Alessio and M. La Torre, *Commento alla legge comunale e provinciale al relativo regolamento e disposizioni successive con aggiunte sulle riforme Mussolini* (Naples, 1924). This is a clause-by-clause analysis, with the amending decrees, etc. Unfortunately there is no index. E. Mazzocolo's *La legge comunale e provinciale* (7th edition, Milan, 1923) is a useful small handbook printed in the Manuali Hoepli series.

² Formerly the members of the ministry were responsible to the Chamber of Deputies, but they are now (1926) accountable to the prime minister alone. The latter, in turn, is responsible to the king and to the Italian parliament.

sponsible for the maintenance of order in all parts of the kingdom and for supervising the work of the local authorities to the extent authorized by law. This makes him one of the most important members of the national cabinet. He is assisted by a large staff of subordinate officials.

First among the areas of Italian local government is the province. The whole kingdom is divided into provinces—there were sixty-nine before the war, but Italy gained some territory by the peace treaty and there are now seventy-six provinces. Like the French departments, these Italian provinces vary both in size and in population. So closely, indeed, has the French model been followed that the result is almost an exact duplication. The Italian province is not a historic area but an arbitrary division constructed for administrative purposes.

At the head of the administration in each province there is a prefect (*prefetto*). He is appointed by the crown on the recommendation of the minister of the interior. He has his headquarters at the provincial capital and occupies a dual position, for he is at once the executive head of the province and the local representative of the national government. He promulgates and supervises the execution of the national laws in his province; he issues decrees and makes regulations; he opens and closes the annual sessions of the provincial council; he may veto resolutions of this body; he has general charge of the police and in an emergency may make use of the military forces. He has supervision over the financial affairs of the cities, to much the same extent as is possessed by the prefect in France. Like the latter, too, he is a political figure and a very active one. His business is to support the party or bloc which is in power at Rome, and this partisanship colors his administrative activities.

The prefect is assisted by a prefectorial council. Its membership is appointive and its duties very similar to those of the council of the prefecture in France.¹ There is also, in each province, an elective council of from twenty-five to forty-five members. These councillors are chosen for a four-year term. The Italian provincial council has functions somewhat akin to those of the general council of the department in France, but it

¹ Matteo Galdi, *Manuale formulario del nuovo procedimento per le conciliazione e preture* (Naples, 1925).

The
provinces
and the
prefects.

The
prefect's
functions.

His pre-
fectorial
council.

holds only one session a year and the prefect's powers in relation to it are, if anything, more extensive.

When the council is not in session it leaves a small commission (*deputazione provinciale*) in charge. This commission prepares the financial estimates for consideration at the annual session of the provincial council; it also appoints some officials and exercises the powers of the council in cases of emergency. In addition, and more important, is the provincial *giunta*. It consists of the prefect (as presiding officer), the provincial comptroller (*intendente di finanza*), two members of the prefectural council, and five additional persons chosen by the provincial council. As will be seen a little later, this body has a good deal of control over municipal administration.

The provincial commission and the *giunta amministrativa*.

The provinces are divided into districts (*circondari*), of which there are two hundred and thirty-five, or an average of about three for each province. Each district has a subprefect (*sottoprefetto*) who is a permanent official of the ministry of the interior. He obeys the instructions of this minister, given through the prefect. There is no district council corresponding to the council of the arrondissement in France. The subprefect, as his title implies, is the immediate agent of the prefect and relieves the latter of many routine matters, especially as respects the supervision of municipal affairs.

The districts and the subprefects.

Then there are the communes, which form the basic areas of Italian local government. A commune is any municipality, large or small, which has been given status as such. As in France, the term is a comprehensive one covering city, town and village. There are more than 9000 communes in Italy, and they range in size from Naples, with over 800,000 inhabitants, Milan with 750,000, and Rome with 700,000, down to the little hamlet of Clavières which has a population of 58. There are 7337 Italian communes with fewer than 5000 inhabitants each, and only 1811 with populations above that figure. All are known as communes, and as will be seen a little later, they are all governed alike at the present time. Irrespective of size or importance they have had their local self-government taken away from them.¹ The term city (*città*) in Italy is of honorary significance, as in England. It is bestowed on various communes, especially the larger ones, as a mark of royal appreciation.

3. The commune as the basic area of local government.

¹ Below, pp. 391-392.

Its legal
status.

The Italian commune is a lineal descendant of the old Roman *civitas*. It has a legal personality, may sue and be sued, is entitled to hold property, and has well-defined legal responsibilities. New communes may be created by royal decree in accordance with the established legal procedure, and changes in communal boundaries can be made with the approval of the provincial authorities. In Italy, as in France, the commune is the only historic, non-artificial area of local government. It far antedates the province and the district, which are nineteenth century creations plotted out by the higher authorities with pencil and alidade.

4. The
frame of
Italian
municipal
govern-
ment.

Let us look at the traditional organization of the Italian city—bearing in mind, however, that this is suspended for the moment by Mussolini's two decrees of 1926. Every city, town, or village has had the same municipal organization. It consists of a mayor or syndic (*sindaco*), an administrative commission (*giunta municipale*), and a communal council (*consiglio comunale*). The council is an elective body which varies in size from fifteen members in communes of under three thousand population to eighty members in those above two hundred and fifty thousand. Thus the councils are larger than in French cities. Councillors are chosen by popular vote every four years. The suffrage includes all male Italian citizens over twenty-one years of age who are bona-fide residents of the commune, who can read and write, and who either pay (a) national taxes, or (b) pay local taxes, or (c) own property, or (d) pay rent above a designated minimum.¹ In 1925 women were given the right to vote in local elections but under certain rather strict limitations. The age limit for women voters was fixed at twenty-five years and an educational qualification was prescribed.² As there is a great deal of female illiteracy in the Italian cities this extension of the suffrage to women did not benefit a large percentage of them.

The
voters'
lists.

The voters' list is annually compiled in each commune by an electoral commission composed of from four to six commissioners and four supplementary members named by the municipal coun-

¹ For further details see the chapter on "L'elettorato" in Emilio Bonaudi's *Comune, provincia e istituzioni pubbliche di benefici* (Turin, 1922), pp. 145-196.

² This educational qualification does not apply to certain categories of women; e.g., war widows, women who are legal guardians of children, women who pay taxes above a certain amount, etc.

cil. The syndic presides. When the commission has made up its tentative enrolment this is posted, after which requests for changes in the list are heard. There is a final appeal to the administrative courts.

For election purposes some of the communes are divided into wards (*frazioni*). Any commune with a population over five hundred may be so divided, in which case each ward elects one or more councillors. But ward divisions have not been made in any of the larger cities and the councillors are elected on a general ticket, subject to the limitation that will be mentioned presently. There are no caucuses, conventions, or primaries, as in American municipalities. Each political party, or bloc of parties, puts forth its slate of candidates, having selected them in whatever way it deems best. Unofficial ballots are then prepared by each party or bloc, bearing the names of the candidates on its own slate. No official ballots are provided. The law assumes that each voter will provide his own ballot, but the party organizations or the candidates relieve him of this trouble. The ballot must be a piece of white paper, without any external mark which would enable it to be recognized. No envelopes are used, as in France, but the ballot is secret if the voter wishes to have it so.

Nomina-
tions and
elections.

In marking his ballot the voter is permitted to vote for only four-fifths as many candidates as there are councillors to be elected. In other words, if twenty councillors are to be chosen, he may mark his ballot for not more than sixteen names. The purpose of this limit is to afford a certain measure of minority representation. A similar arrangement, with the same purpose in mind, has been tried in some American cities, but not with very good results.¹

Limited
voting.

Italian municipal elections are fought on party issues and almost invariably on issues of national policy. This is particularly true of the larger cities. During a municipal campaign very little is heard about local questions. Until the accession of Mussolini the disintegration of parties made it almost impossible for any one of them to get a clear majority in the city

Party
issues in
municipal
elections.

¹ In Boston, for example, during the years preceding 1909. Thirteen members of the board of aldermen were elected at large, but no voter was permitted to mark his ballot for more than seven names. Under this arrangement the majority party regularly elected seven aldermen while the minority elected six. The margin was so close that deadlocks were frequent and prolonged.

council, save in the small municipalities, and the council's work was carried on by the formation of blocs or party groups. With the new order of affairs in the national government, however, there came an era of Fascist majorities in many of the municipalities, thus permitting a more stabilized policy. More rigid supervision, amounting almost to control, of local elections was also inaugurated by the Mussolini government. Finally, in 1926, municipal elections were suspended altogether.

The
municipal
council:

The Italian municipal council holds two regular sessions a year, in the spring and in the autumn. As in France, the sittings continue over several days and sometimes last for a fortnight or more. Special sessions can be called by the syndic, or by the administrative commission (*giunta*), or by one-third of the councillors. As a matter of fact the councils of the larger cities are frequently called into special session by the syndic. At all sessions this official presides. Meetings of the council are public, but by majority vote the councillors may order the doors closed. It usually does so when appointments are being discussed. Much of the council's preliminary work is handled by committees which are selected by itself.

Its work.

The council may be suspended or even dissolved by the higher authorities if it fails to perform its functions properly or insists on disobeying the legal instructions of the prefect. In the event of a dissolution a new election is ordered and the same councillors may be re-elected; but if a second dissolution takes place within two years the municipality may be placed in the hands of a royal commissioner and governed according to the prefect's instructions. In general the powers of the prefect have been greatly extended during the past few years. It is his duty, according to the letter of the law, to keep local administration "in harmony with the general policy of the national government".

Its powers.

The functions of the council are divided into two categories—obligatory functions and discretionary functions. The former are the more important. The national laws impose on the council the duty of providing for the construction and maintenance of local streets, a water supply, public buildings, the care of the public health, the support of the poor, and the maintenance of elementary schools. In addition, the laws require the municipal council to make provision for keeping the civil register (or births, marriages, and deaths), preparing the military register, the voters'

list, and compiling various other data. This work is done, however, by the secretary of the commune, whose position is analogous to that of the *secrétaire de mairie* in France. Financial provision for the maintenance of the police is also obligatory, but the control of police is not within the council's jurisdiction.¹ The council's discretionary functions extend to municipal affairs outside this obligatory list, but even here the approval of the subprefect or prefect is usually essential.

At best the Italian municipal council is a deliberative and policy-determining body, subject to the limitation that its decisions are not always final by any means but must usually have the approval of a higher authority. It does not deal with the actual administration of municipal affairs either directly or through committees, as in England. This work is in the hands of the administrative board (*giunta*), a body of from two to ten regular members (*assessori effettivi*) according to the size of the city. In addition to these regular members there are also from two to five supplementary members (*assessori supplenti*). All are elected by the city council and hold office for four years. The syndic is its presiding officer. When he is absent or incapacitated he designates one of the *assessori effettivi* to serve in his place. The official thus designated is then known as the *assessore delegato*. The administrative board meets frequently and its sessions are never open to the public. It prepares business for the council, including the annual budget;² it carries out the council's decisions; it acts for the council when the latter is not in session; it administers the property of the commune; and its various members are heads of the different municipal services. In a word it is "the city government" and is commonly referred to as such by the citizens.

The
giunta
or admin-
istrative
board.

Members of this *giunta* are like the French adjoints in that the council chooses them from among its own members, but they are also akin to the paid members of the German *Magistrat* in that each regular *assessore* is assigned to the headship of some municipal department, such as streets, public health, parks, finance, and so forth. Thus the members of the *giunta* have both collective and individual functions. The city council, as has

Its func-
tions.

¹ See below, p. 393.

² See the chapter entitled "La giunta municipale" in Paride Peccioni's *L'amministrazione locale* (2nd edition, Turin, 1923), pp. 237-242.

been said, chooses these members, but it cannot remove them from office before their terms have expired. It has become the custom, however, for the syndic and the members of the *giunta* to offer their resignations (following the parliamentary analogy) if at any time the council declares by resolution its lack of confidence in them.

How
appoint-
ments
are made.

So long as it continues in office the *giunta* virtually rules the city, subject, however, to the control exercised by the prefect, the provincial administrative board, and the minister of the interior at Rome. It makes most of the appointments, usually on the nomination of the syndic. In presenting his nominations the syndic is bound by the general laws relating to the qualifications of appointees, but the Italian cities have no comprehensive system of civil service competition such as exists in many American cities. Political considerations play a noticeable part in the selection of all officials and employees, from highest to lowest. On the other hand, political influences are not usually controlling. The qualifications of the appointee count for a good deal.

Something akin to a civil service system has been making headway in the Italian cities, and a number of salaried officials are now chosen by competition. An examining commission applies the tests and certifies the three highest candidates to the syndic. The secretary of the commune, an official of the highest importance who corresponds to the town clerk in England and the *secrétaire de mairie* in France, is always chosen by the council. No one can be at the same time a paid official of the city and a member of any municipal or provincial council or *giunta*. Regulations as to the discipline of the municipal staff are made by the council.

The
sindaco.

Finally, there is the syndic or mayor.¹ He is elected for a four-year term by the city council from among its own members and is re-eligible so long as he remains a member of the council. An absolute majority is required on the first and second ballots. If no one is elected on these two ballots, a third ballot is taken to decide between the two candidates who have stood highest on the second ballot. The election may be annulled by the prefect but only on grounds of illegality or fraud. The syndic is the titular head of the commune. He presides at meetings of the

¹ For a good discussion of this office, see Piccioni's *L'Amministrazione locale* (Turin, 1923), pp. 242-256.

council and the *giunta*. He prepares business for consideration by the latter, and he issues decrees or orders carrying its decisions into effect. But he has no veto over the council's acts nor does he make any appointments, although he frequently nominates candidates for appointment. But, on the other hand, he is the national government's local representative and ranks as a functionary of the crown. In this capacity he has a good deal of power. He promulgates laws and decrees; he has charge of the civil census (*stato civile*); he is responsible for the maintenance of public order and security; and he must inform the higher authorities of all important happenings in his commune. When the city is divided into wards (*frazioni*) he may delegate to a councillor any routine functions which he possesses as the agent of the central government. The Italian mayor receives no regular salary but may be granted an allowance for official expenses.¹

During the early part of 1926 the national government made a sweeping change as respects the organization of government in the smaller communes. In all communes of under five thousand population the mayors, *giunte*, and elective councils were abolished. In their place each small commune received a commissioner appointed by the national authorities—a revival of the old *podestà*.² This official holds office for five years but his term may be extended on the recommendation of the prefect. The prefect may allow the *podestà* the assistance of an advisory council, in which case the members are chosen one-third by himself, two-thirds by various economic bodies (such as boards of agriculture or trade) and local associations designated by the prefect. But the *podestà* is not bound to follow the advice given him by such council.

A recent
and far-
reaching
change.

This new arrangement applied to more than seven thousand municipalities, leaving less than two thousand with the old elected municipal councils. It represented a drastic step, dictated by the Fascist conviction that the affairs of the smaller communes had been wastefully administered. "The factional struggles in these municipalities", said Mussolini, "have destroyed all sense

¹ Prior to 1924 a member of the Chamber of Deputies, or of a provincial council, was ineligible for election to the post of syndic; but this ineligibility has now been removed.

² A municipal dictator who ruled in many of the Italian cities during the first half of the thirteenth century.

of the collective good, all respect for justice, all solicitude for economy, and all considerations of wise government". But even the larger municipalities were not long left in command of their own local affairs. On August 30, 1926, the national government issued a further decree abolishing the councils in cities having more than 5000 population, and establishing a governor or podestà in each. In cities of over 20,000 population this official is assisted by two vice governors and an appointive advisory board. Members of this board are selected by the prefect, or by the minister of the interior, from lists submitted by various local organizations.

By these two decrees local self-government has been temporarily extinguished in Italy; but it is hardly to be expected that this plan will prove permanent, for it strikes a body blow at the whole fabric of Italian democracy. Democracy needs local self-government as its foundation. It cannot exist, much less thrive, on any other basis. It is for this reason that the traditional system of Italian municipal government has been described in the foregoing pages, notwithstanding its suspension in all the cities at the present time.¹ It has some striking features, and there can be little doubt that it will ultimately be restored—perhaps within a few years.

The mechanics of traditional control deserve some attention, for although they are in some ways similar to those existing in France they are in other respects quite different. Control over municipal government in Italy is principally maintained by the legal provision that all resolutions and other actions of the municipal council (except in relation to routine matters) must be submitted to the prefect for ratification. The asserted purpose of this requirement is to prevent the council from passing resolutions which are contrary to the general laws and from taking action which is beyond the scope of its powers. In general, therefore, the prefect is supposed to be on the lookout for actions which are *ultra vires* or illegal, and not to withhold his *visto* by mere reason of disagreement with the council as to the expediency of its action. As a rule the council is permitted to decide whether a proposed action is expedient or not—assuming that it keeps within its legal powers. But in certain cases the prefect is empowered to go into the merits of the council's

¹ For the system in Rome, see *below*, pp. 398-399.

The
mecha-
nism of
central
control.

Approval
of council
resolu-
tions.

action. For example, a contract awarded by the municipal authorities is subject to disapproval if the prefect decides that it is improvident or unwise. Disputes often arise as to whether the prefect is rightly withholding his ratification, and these controversies are settled by the administrative courts—usually by the Council of State, which has final jurisdiction in such matters.

In France the municipal budget, after it has been adopted by the council, goes to the prefect (in some cases to the minister of the interior) for his approval. In Italy it does not go to the *prefetto* but to the provincial administrative board (*giunta provinciale amministrativa*). This body may strike out any item that appears to be illegal and may insert items to cover any expenditures that have been made obligatory by law. But it is not empowered to change the budget in other ways. The approval of the provincial *giunta* is also required for the purchase or sale of land by the municipality, for the laying out of new streets, and for all codes of regulations such as those relating to health, traffic, housing, etc. In France, therefore, it is the prefect who supervises local government, while in Italy this work is divided between the prefect and the provincial *giunta*.

Financial
control.

It should not be assumed, however, that the Italian cities are entirely at the mercy of these higher authorities. They have certain rights connected with local self-government and these rights are under the protection of the highest administrative court, the judicial section of the Council of State. This body has power to decide (with certain exceptions) all controversies as to whether the actions of a minister, prefect, *giunta*, or sub-prefect are warranted by law. If it decides that they are not, they are annulled. The ordinary courts of justice have also some authority in this field—more than is possessed by the ordinary courts in France.¹ They may decline to enforce an administrative order, or to penalize violations of it, but they cannot revoke or modify it. This the administrative courts alone can do.

Limita-
tions on
central
control.

What happens if a municipality, on failing to obtain a favorable ruling from the Council of State, goes ahead with its plans despite the prefect's refusal to ratify, or declines to do something

Govern-
ment by
royal
commis-
sion.

¹ On this point see the author's *Governments of Europe* (New York, 1925, pp. 676-677.

which the prefect orders to be done? The law gives the higher authorities a weapon to be used in such instances. The prefect may appoint a commissioner with *ad hoc* powers to do anything that the council has refused or failed to do. Or, in extreme cases, as has been said, the national government may dissolve the council, oust both the municipal *giunta* and the syndic, and install a royal commissioner to do their work. Even here, however, the municipal authorities are under the protection of the Council of State, although the protection is not very ample in view of the control which the national government now exercises over the supreme administrative tribunal. The Council of State is by no means a mere tool of the national government; on the other hand it does not possess, or display, the independence of its sister tribunal in the French Republic.

It may be well, at this juncture, to take a general view of the chief local administrative functions, as we understand them in America, noting the way in which they are distributed among the various Italian authorities. For it is only by so doing that one can see how much home rule an Italian city normally enjoys. First and most important is the field of municipal finance. The taxing power of the municipality extends over a wide range but is limited by various laws and decrees. In England and in the United States the direct taxation of land and buildings is reserved to the municipality; in Italy this is not the case. The national government lays the direct taxes on real estate and the municipalities have merely the right to superimpose an additional amount. With the approval of the ministry of finance, however, the municipalities may levy a graduated tax on business operations. They are also authorized to impose a considerable list of excise taxes (on cafés, billiard halls, tourists, and on the practice of all the professions such as law, medicine, etc.). An *octroi* may be collected on merchandise coming into the city, and mention should also be made of the taxes on gross incomes (*imposta complementare sul reddito*) recently authorized by law as a substitute for the family and luxury taxes. As respects the expenditure of this income, as has been said, there is a considerable amount of higher supervision. The general rule is that any new expenditure which concerns a public service must be sanctioned by the provincial *giunta* before it becomes valid.

A brief
survey
of the
chief
municipal
functions
in Italy.

1. Finance.

2. Streets.

Italian highways, like the French, are divided into two categories. Main roads are laid out, constructed, and maintained by the provincial authorities. The cost is paid from the provincial treasury or from the proceeds of loans made on the credit of the province. This category includes the main thoroughfares which run through the cities and sometimes serve as their principal business streets. Minor highways, including city streets which are not used for through traffic, are planned, built, and maintained by the municipal authorities, but the plans must have the approval of the provincial *giunta*. The cost is borne by the municipality but special assessments may be laid upon the private property which is benefited by the improvement. These assessments are made by the municipal council, with a right of appeal to the higher authorities in case of controversy.

3. Police:

Police jurisdiction is a rather complicated matter in Italy. The enforcement of the national laws and the maintenance of public order are functions of the provincial authorities for the most part. The work is performed for them by the military organization known as the *carabinieri* which is an integral part of the Italian national army. This organization is directly under the minister of war, but the minister of the interior may at any time command its services for police duty. The *carabinieri* are regularly on patrol in urban and rural districts alike. This differentiates them from the French *gendarmerie* and from the state constabularies in America. Moreover, they perform police duty in the widest sense of the term—conducting investigations, inspecting premises which are alleged to be unsanitary, and gathering all sorts of information for the national authorities.

(a) The
carabinieri.

In addition, many cities and towns have their own municipal police (*guardia municipale*) under the immediate control of the syndic.¹ This force is mainly concerned with the enforcement of the city ordinances. Its members serve as traffic officers, health inspectors, and housing inspectors. They have a right to make arrests, but in general take no important part in criminal investigations or procedure. Being much inferior to the *carabinieri*, both in prestige and efficiency, they are looked upon by the latter with a good deal of condescension.

(b) The
municipal
guard.

¹ These municipal police should not be confused with the old city guard (*corpo di guardia della città*) which was abolished in 1919, or with the royal guard (*guardia Regia*) which was abolished in 1923.

(c) The
Fascist
militia.

For Rome there is a special metropolitan police force (*polizia metropolitana*) which is now under the control of the governor. Mention should also be made of the national volunteer militia which was organized by royal decree in 1923 and plays a considerable part in the maintenance of the Fascist régime. This body is recruited entirely from among members of the Fascisti "whose character and qualities are fully vouched for". It is directly under the orders of the national government and its duty is to "assist in the maintenance of internal public order". Save for a small number of officers and men on full-time duty the Fascist militia is an unpaid organization, but its members receive certain allowances whenever they are sent to perform service in communes other than their own. This militia is called out whenever it is needed to strengthen the regular police forces, especially on the occasion of public celebrations. The uniform of the *milizia volontaria* is similar to that of the Italian army, but with an open tunic and black shirt.

4. Schools.

The system of elementary education in Italy is based upon school districts which may comprise a single commune but more often include a group of communes. The cost is defrayed in part by contributions levied upon the municipalities and in part by subsidies or grants-in-aid from the national treasury. In the larger communes the work of administering the school system is devolved upon the regular municipal authorities, but in the smaller ones, and in the school districts which are composed of grouped communes, there is a separate school board. The whole system of elementary education is supervised from Rome by the minister of public instruction, this supervision being exercised to some extent through the provincial school councils. Secondary and higher education (high schools, academies, technical schools, and universities) is directly under the national government's control. It will be seen, therefore, that education is only to a very slight extent a municipal function in Italy.

5. Public health.

Public health is both a provincial and municipal responsibility. The chief power lies with a provincial health board which is presided over by the prefect. The syndics in the communes act as the local agents of this body and carry out its instructions. But the detailed work of caring for the public health in every considerable municipality is entrusted to a health officer who is appointed by the prefect. He is paid from

the municipal treasury, which is also required to provide money for various obligatory public health expenses.

Poor relief, on the other hand, is largely on a home rule basis. In every commune the municipal council appoints a charity commission (*congregazione di carità*) composed of some councillors and some outsiders. This commission has charge of such charitable funds as have been given to the municipality; it also supervises the local poorhouse, orphanage, or infirmary, when such institutions have been established. A great deal of poor-relief work, however, is carried on by private or semi-public organizations over which the charity commissioner has no control. These organizations come under the supervisory jurisdiction of a provincial charity commission.

6. Poor relief.

With respect to many other matters, such as water supply, sewerage, parks and public recreation, fire protection, public lighting, and the control of public utilities (such as gas, electric lighting, telephone, street railway and motorbus companies), the lines of jurisdiction would take too much space to follow here. The Italian city may take over and operate a public utility but only after the project has been approved by popular vote at a referendum and has been ratified by the highest authorities.

7. Other functions.

All in all, the Italian municipal system is the child of the French and bears unmistakably the marks of its paternity. Whether there is more centralization of control in Italy than in France was an arguable question ten years ago; it is hardly so today. Under the Fascist control in Italy there has been a stiffening of central control all along the line. The revival of the mediæval *podestà* in the communes is the most extreme expression of this centralizing spirit but by no means the only one. Italy, not France, now affords the most striking antithesis to the Anglo-American scheme of municipal self-determination. American cities complain a great deal about limitations on their freedom of action, but compared with the municipalities of the Italian peninsula they have an extremely generous measure of home rule.

A recent illustration of this fact will suffice. Twenty-five

¹ This, by the way, is the only question upon which the popular referendum or plebiscite is used in Italy. Many of the larger cities have taken over, and are operating, some of their public utilities.

An exam-
ple of
recent
repression.

years ago the communes of Italy formed a national association to promote the cause of municipal home rule. This *Associazione dei Comuni* adopted a program calling for the abolition of the provincial administrative board, the classification of communes according to size, a revision of the municipal code, more scope for local initiative, and various other steps in the way of municipal self-determination. About 2500 communes were affiliated with this association, including virtually all the larger ones. But its aims and activities became distasteful to the Mussolini government and in 1926 it was disbanded. Organizations and leagues with a similar purpose exist in many of the American states, but there has been no thought of interference with them.

The gov-
ernment
of Rome.

The government of the Italian capital deserves a word. During the years preceding 1870 Rome was governed by the Vatican. It was the seat of government for the States of the Church, and the Pope ruled the municipality through appointive officers with a senator at their head. There was no elective city council. When the Italian government took over the capital, and brought the temporal power of the Papacy to an end, it established in Rome a system of municipal government identical with that existing in the other large cities of the kingdom. This consisted of an elective municipal council (eighty members), an administrative board or *giunta*, and a syndic or mayor. Both the latter were chosen by the council. They exercised their functions subject to supervision of the prefect and the administrative board of the province in which Rome is situated, a province which contains over two hundred other communes.

This scheme of government continued until 1925 when it was abolished by the Mussolini government and a highly centralized metropolitan administration established in its place. Syndic, *giunta* and council were simultaneously erased from the political map. In their stead the national government installed a governor, two vice governors, and ten "rectors", all appointed by the crown on the recommendation of the minister of the interior. The governor is the administrative head of the city, assisted by his two immediate subordinates. The rectors serve as the heads of the various municipal departments or services. They do not deliberate as a body, but have individual functions only. Matters of routine in each department are settled by the rector who is at its head, but questions of policy come before a

commission or "magistrato" composed of the governor, the two vice governors, and the rector in whose department the question arises.

There is also an advisory council of eighty members (*consultori*), all of whom are appointed. A majority are named by the governor on his own initiative, while a minority are designated by him from nominations submitted by various Roman civic and professional organizations (including the chamber of commerce, the bar association, the medical association, the manufacturers' association, and so forth). The advisory council, as its name implies, has a purely consultative voice in municipal affairs; it possesses no control over the governor, the vice governors, or the rectors.

Such is the present frame of government in the Eternal City. It is more highly centralized than it was in the days when the Emperor Augustus ruled it through his *praefectus urbi*, or when Napoleon Bonaparte designated his own youngster King of Rome. No other large city in Europe is so completely under the tutelage of the national authorities. It seems improbable that such a situation can permanently endure, yet when one bears in mind the similarly complete absence of self-government in the national capital of the United States there can be no certain assurance of ultimate freedom.

CHAPTER XXII

SOURCES AND LITERATURE

BRITISH CITIES

Bibliography. On all matters pertaining to the history of British cities and the development of municipal institutions, the *Bibliography of British Municipal History* by Charles Gross (New York, 1897) is invaluable. In addition to extensive lists on general municipal history, this volume contains useful selected bibliographies on such topics as municipal reform, the government of the City of London, and so on. There is no inclusive bibliography of the materials which have appeared during the thirty-year interval since the foregoing volume was published, but a useful selection may be found in John J. Clarke's *Local Government of the United Kingdom* (Third edition, London, 1925), pp. 447-461, a volume to which the author has become much indebted in the preparation of these bibliographical notes. Mention should also be made of the excellent *Bibliography of Public Administration* (edited by Sarah Green), published by the National Institute of Public Administration (New York, 1926). While largely devoted to the literature of public administration in the United States, this useful volume contains a good many references to English materials as well.

Official Publications. The laws relating to British city government are printed in the *Statutes of the Realm*, but the more important enactments are also printed separately and may be had from His Majesty's Stationery Office. Much material of a highly useful character is brought together from time to time in the reports and minutes of Royal Commissions and Select Committees appointed to investigate municipal problems. Publications of this sort are listed in the *Catalogue of Parliamentary Papers* and in the *Numerical List and Index to the Parliamentary Papers* which is printed at the end of each session.

Among the earlier reports, the most important, of course, is the *First Report of the Royal Commission on Municipal Corporations*, issued in five volumes (London, 1835). The first volume contains the commission's findings and report; the other four contain the evidence. A *Second Report of the Royal Commission on Municipal Corporations* was issued in 1837. It dealt with the City of London only. One of the commissioners, A. E. Cockburn, published in 1835 an unofficial summary of the commission's work entitled *The Corporations of England and Wales*. In 1854 appeared a voluminous *Report of the Commissioners Appointed to Inquire into the Existing State of the Corporation*

of London, and in 1861 a *Report from the Select Committee Appointed to Inquire into the Local Government and Taxation of the Metropolis*. Five years later there was another *Report from the Select Committee on Metropolitan Local Government*, followed by a somewhat similar *Report* in 1867. Finally, in 1894 came the *Report of the Commissioners Appointed to Consider the Proper Conditions under which the Amalgamation of the City and County of London can be Effected*, etc. (2 vols., London, 1894). These volumes contain extensive minutes of evidence given before the commission.

Since the World War we have had two further compilations of great interest and importance. These are the *First Report of the Royal Commission on Local Government* (London, 1925), with *Minutes of Evidence* in seven additional parts. Special attention should be called to Part I, containing the testimony of Mr. I. G. Gibbon, C. B. E., Assistant Secretary of the Ministry of Health, which brings together a great deal of accurate information on every phase of English local government. Other enlightening testimony was given by representatives of town councils, the Association of Municipal Corporations, etc. The other compilation is the *Report of the Commissioners Appointed to Inquire into the Local Government of Greater London* (London, 1923), which is also accompanied by *Minutes of Evidence* in seven parts. These contain the testimony given by representatives of the Ministry of Health, the London County Council, the City of London Corporation, the Ministry of Transport, the councils of various metropolitan boroughs, and so forth. Special attention should be called to the testimony of Mr. Maurice L. Gwyer, C. B. E., contained in Part I, which gives an excellent survey of contemporary London government. The amount of data included in the foregoing *Reports* and *Minutes of Evidence* is stupendous. It is spread over thousands of pages. Mention should also be made of the more concise *Report of the Sub-Committee on Local Government* issued by the Ministry of Reconstruction in 1918.

Every year the Ministry of Health issues a comprehensive annual report, besides various special reports or "returns", and the same is true of the other Departments which have to do with municipal affairs, such as the Ministry of Transport, the Board of Trade, and the Home Office. All publications of this sort can be had at a nominal price from His Majesty's Stationery Office, London.

As for London, the *Minutes of the Proceedings of the London County Council* are printed weekly. Each year the Council issues an *Annual Report*, a feature of which is a review of the year's work by the Council's chairman. In addition, many of the reports made by the Council's committees or by committees of the central departments have been published from time to time; for example, the *Report of the Advisory Committee on London Traffic* (1920), the *Report of the Departmental Committee on London Markets*, issued in five parts (1920-1921), besides recent reports on London Water Supply, Unhealthy Areas, Poor Law Reform, and many other topics. A full list of these (and of parlia-

mentary publications) may be found in King's Monthly and Annual Lists, issued by P. S. King & Co., printers to the London County Council.

Statistics. Statistical information concerning British municipalities can be conveniently found in the *Municipal Year Book of the United Kingdom* (issued annually by Lloyds, London). It is not an official publication, but its figures are compiled from official sources and may be relied upon. Statistical data may also be found in the handbooks, manuals, and other publications issued by the larger boroughs.

Encyclopedias. A highly useful work of this character is the *Encyclopedia of Local Government Law*, edited by J. Scholefield, which originally appeared in seven volumes (London, 1905-1908). Several supplementary volumes have appeared since the latter date, thus modernizing the material. Notwithstanding its title, this *Encyclopedia* does not deal with local government law alone, but covers a much wider field.

Municipal Corporations Acts. Sir Charles Rawlinson's *Municipal Corporations Acts* (Ninth edition, London, 1903) contains the general statutes down to that date. T. J. Arnold's *Law Relating to Municipal Corporations in England and Wales* (Fifth edition, London, 1910) is an exhaustive compilation, with references to all the earlier judicial decisions. For other books on the legal aspects of English local government, see *below*, p. 408.

Periodicals. The *Municipal Journal*, published weekly in London, is the best-known periodical dealing in a broad way with British municipal affairs. But there are many specialized journals which deal with engineering, lighting, policing, street railways (tramways), municipal accounting, and so forth. Mention should be made of the *Local Government News*, an interesting monthly periodical published by the Fabian Society in conjunction with the Labor Party. It contains much readable comment on current municipal affairs, from the Labor point of view, together with notes on new legislation, comments on judicial decisions, reviews of books, summaries of official reports, and occasional bibliographies on selected topics. The *Journal of Public Administration*, a London quarterly, prints good articles on municipal matters from time to time.

History of British Cities. There is no general history of English borough government from Saxon times to the present day. But there are five books which cover considerable portions of it and are of varying value:

(a) **General Works:**

BRADY, ROBERT. *An Historical Treatise of Cities and Burghs or Boroughs*. London, 1690.

Written in a partisan spirit to justify the actions of the Crown in relation to borough charters. Contains long extracts from Domesday Book and other sources. The appendix includes some early borough charters.

MADOX, THOMAS. *Firma Burgi, or An Historical Essay Concerning the Cities, Towns and Boroughs of England, taken from Records.* London, 1726.

A great amount of valuable material, but the generalizations are not trustworthy.

MEREWETHER, H. A., and STEPHENS, A. J. *History of the Boroughs and Municipal Corporations of the United Kingdom*, 3 vols., London, 1835.

This work is strongly biassed, having been written to influence public opinion in favor of municipal reform. It contains a great mass of good material, but many of the conclusions are unsound.

THOMPSON, JAMES. *An Essay on English Municipal History.* London, 1867.

A small volume containing some readable chapters, but without much coherence.

WEBB, SIDNEY and BEATRICE. *The Manor and the Borough.* 2 vols., London, 1906.

Invaluable on the history of borough institutions prior to 1835. Well documented, with lists of statutes and a good index.

Mention should also be made of other volumes on English local government by the same authors; namely, *The Parish and the County* (London, 1906), *The Story of the King's Highway* (London, 1913), *Grants-in-Aid* (London, 1920), and *Statutory Authorities for Special Purposes* (London, 1922).

(b) **Special Studies:** On the other hand, there are numerous studies and sketches of English municipal institutions and their development at various periods. Among the more useful of these are:

(1) EARLIEST PERIOD.

BALLARD, A. *The Domesday Boroughs.* London, 1904.

WRIGHT, THOMAS. "On the Existence of Municipal Privileges under the Anglo-Saxons", in *Archeologia*, xxxii, pp. 298-311. (1847.)

MAITLAND, F. W. "The Origin of the Boroughs", in *English Historical Review*, xi, pp. 13-19. (1896.)

GOMME, G. L. *The Village Community, with Special Reference to the Origin and Form of its Survivals in Britain.* London, 1890.

MORGAN, J. F. *England under the Norman Occupation.* London, 1858.

STEPHENSON, CARL. "The Origin of the English Towns" in the *American Historical Review*, xxxii, pp. 10-21 (October, 1926).

Chap. vi, "Boroughs and Cities."

(2) MIDDLE AGES.

ASHLEY, SIR WILLIAM. *Introduction to English Economic History.* 2 vols., London, 1888-1893.

Vol. ii, chap. 1. The supremacy of the towns from the fourteenth to the sixteenth centuries.

BALLARD, ADOLPHUS. *The English Borough in the Twelfth Century*. London, 1914.

BALLARD, ADOLPHUS. *British Borough Charters, 1042-1216*. Cambridge, England, 1913.

BALLARD, ADOLPHUS, and TAIT, JAMES. *British Borough Charters*. London, 1923.

A continuation of the preceding volume.

BATESON, MARY. *Borough Customs*. 2 vols., London, 1904.

Issued as one of the Selden Society publications.

BENSON, EDWIN. *Life in a Mediæval City*. London, 1920.

A very interesting account of municipal and private life in York during the fifteenth century.

COLBY, CHARLES W. "The Growth of Oligarchy in English Towns", in *English Historical Review*, vol. v, pp. 633-653. (1890.)

GREEN, HARRIET STOPFORD (MRS. J. R. GREEN). *Town Life in the Fifteenth Century*. 2 vols., London, 1895.

MAITLAND, F. W. *Township and Borough*. London, 1898.

A clear account of origins.

POLLOCK, SIR FREDERICK, and MAITLAND, F. W. *History of English Law*. 2 vols., Cambridge, 1895.

The Borough, vol. i, pp. 625-678.

TOUT, J. F. *Mediæval Town Planning*. London, 1917.

(3) MODERN TIMES. (Especially the Era of Reform.)

MAY, SIR THOMAS ERSKINE. *Constitutional History of England since the Accession of George III*. 3 vols., London, 1906.

Chap. xv, Municipal Reform.

PALGRAVE, FRANCIS. *Corporate Reform*. London, 1833.

Observations on the principles to be adopted in reforming the borough governments.

WADE, JOHN. *The Black Book, or Corruption Unmasked. Being an Account of Places, Pensions and Sinécures . . . the Whole forming a complete Exposition of the Cost, Influence, Patronage, and Corruption of the Borough Government*. 2 vols., London, 1820-1923. Later editions were published in 1831, 1832, and 1835.

WALPOLE, SPENCER. *History of England from . . . 1815*. 5 vols., London, 1878-1886.

Chaps. xiv-xv, Municipal Reform.

VINE, J. R. S. *English Municipal Institutions: Their Growth and Development from 1835 to 1879*. London, 1879.

(4) MUNICIPAL GOVERNMENT SINCE THE WAR.

HILEY, SIR ERNEST. *A Guide to Local Government Legislation since the War*. London, 1925.

Gives a summary of all the recent changes.

General Descriptions of Present-day Local Government:

CLARKE, JOHN J. *The Local Government of the United Kingdom*. Third edition, London, 1925.

A well-arranged, concise, comprehensive, and up-to-date survey of the whole subject, with special reference to the laws affecting local government. A good bibliography is appended.

CLARKE, JOHN J. *Outlines of Local Government*. Sixth edition, London, 1926.

A shorter work intended for student use.

JENKS, EDWARD. *Outlines of English Local Government*. Second edition, London, 1907.

Labor Party. *Local Government Handbook*. London, 1924.

A useful compilation of about 250 pages, prepared by the Joint Research and Information Departments of the Trades Union Congress and the Labor Party. Contains chapters on various phases of borough administration. A good bibliography is appended.

ODGERS, W. BLAKE. *Local Government*. Second edition, London, 1913.

REDLICH, JOSEF, and HIRST, FRANCIS W. *Local Government in England*. 2 vols., London, 1903.

Vol. ii contains several good chapters on borough government, but they are now somewhat behind the times.

WRIGHT, ROBERT S., and HOBHOUSE, HENRY. *Local Government and Taxation in England and Wales*. Fifth edition, London, 1922.

An excellent work, lucid and accurate, with full statutory references.

Scotland.

DYKES, D. O. *Scottish Local Government*. London, 1907.

MURRAY, DAVID. *Early Burgh Organization in Scotland*. Glasgow, 1924.

Scottish Office. *Memorandum on the Local Government System of Scotland*. London, 1925.

This is a reprint from the *Minutes of Evidence* taken before the Royal Commission on Local Government.

WHYTE, W. E. *Local Government in Scotland*. Edinburgh, 1925.

The latest and best book in this field.

London.

DAVIES, A. EMIL. *The Story of the London County Council*. London, 1924.

A Fabian Society pamphlet.

GLASSPOOL, A. J. *The Corporation of the City of London*. London, 1924.

Deals mainly with the picturesque features of London government.

HARRIS, P. A. *London and Its Government*. London, 1913.

The best general book on this topic.

HOPKINS, A. B. *The Boroughs of the Metropolis*. London, 1900.
Old but still useful.

REED, THOMAS H., and WEBBINK, PAUL. *Documents Illustrative of American Municipal Government*. New York, 1926.

Contains a reprint (in part) of the survey given by Maurice L. Gwyer, Esq., before the Royal Commission on London Government.

SEAGER, J. R. *The Government of London under the London Government Act*. London, 1902.

SMITH, J. TOULMIN. *The Metropolis and Its Municipal Administration*. London, 1852.

An account of London government before the reform.

University of London Press. *The London County Council and What It Does for London*.

A series of pamphlets setting forth in popular language the achievements of the L. C. C.

WEBB, SIR ASTON. *London of the Future*. London, 1921.

Deals mainly with the physical aspects.

Central Control of Borough Government:

ASHLEY, PERCY. *Local and Central Government*. New edition, London, 1922.

Covers the countries of Continental Europe as well as England.

HARRIS, G. MONTAGU. *Local Government in Many Lands*. London, 1926.

A summary description of local government and especially of the relations between local and central government.

LASKI, HAROLD J. *The Problem of Administrative Areas*. Northampton, Mass., 1918.

RAIGA, T. A. *Le mouvement de centralisation administrative et financière en Angleterre*. Paris, 1913.

REID, G. T. *The Origin and Development of Public Administration in England*. London, 1913.

SPENCER, F. H. *Municipal Origins: A History of Private Bill Legislation*. London, 1911.

See also Troup's *Home Office* and Newsholme's *Ministry of Health*, below, p. 411.

Suffrage and Elections:

DAY, S. E. (Editor.) *Rogers on Elections*. 3 vols., London, 1894.

Vol. iii is devoted to municipal elections.

GRAY, FRANK. *The Confessions of a Candidate*. London, 1925.

Interesting reflections, both serious and humorous, on the experiences of a candidate in English election campaigns.

LLOYD, J. S. *Municipal Elections and How to Fight Them*. London, 1906.

A manual for the use of local politicians.

PARKER, F. R. *The Powers, Duties, and Liabilities of an Election Agent and of a Returning Officer*. Third edition, London, 1920.

SEYMOUR, CHARLES, and FRARY, DONALD P. *How the World Votes*. 2 vols., Springfield, Mass., 1918.

Chapters on English elections, past and present.

TERRY, G. P. W. *The Representation of the People Act, 1918*. London, 1919.

A full explanation of the existing suffrage requirements in both local and parliamentary elections.

WILLIAMS, J. F. *The Reform of Political Representation*. London, 1918.

A plea for the use of proportional representation in English elections.

Borough Organization:

ATLEE, C. R. *Borough Councils: Their Constitution, Powers, and Duties*.

A Fabian Society tract or pamphlet, giving a clear and succinct presentation. The same author's pamphlet on *Metro-politan Borough Councils* also deserves mention.

ATLEE, C. R., and ROBSON, WILLIAM A. *The Town Councillor*. London, 1925.

A useful little book of about 125 pages, written by two prominent adherents of the Labor Party. Deals with town government in general, the municipal civil service, borough finance, and the various public activities of the borough.

COX, MONTAGUE H. *Municipal Organization, Procedure and Office Management*. London, 1923.

Explains the principles of borough organization and procedure.

CREW, ALBERT. *The Law and Practice Relating to Meetings of Local Authorities*. London, 1922.

HOWE, FREDERIC C. *The British City: A Problem in Democracy*. New York, 1907.

A highly eulogistic description of British municipal organization and administration.

JENKS, EDWARD. *The Government of the British Empire*. London, 1918.

The last two chapters in the book deal with the organization of British local government.

LOWELL, A. LAWRENCE. *The Government of England*. 2 vols., New York, 1908.

Contains excellent chapters on British borough organization.

MASTERMAN, C. F. G. *How England is Governed*. London, 1922.
Part II is devoted to "The Government of the City."

SHAW, ALBERT. *Municipal Government in Great Britain*. New York, 1898.

A readable account of English borough government as it was thirty years ago.

Municipal Law:

COPNALL, H. H. *The Law Relating to Highways*. London, 1918.

DAVY, S., and MINSHULL, H. *The Law and Practice of Town Planning*. London, 1923.

DOWDALL, HAROLD C. *Local Development Law*. London, 1919.

A survey of the powers of local authorities in England with reference to housing, road building, the acquisition of lands for public use, and town planning.

GLEN, W. C. *The Law of Public Health and Local Government*. Fourteenth edition, 6 vols., London, 1922.

KEEN, F. W. *The Law Relating to Public Service Undertakings*. London, 1925.

LEACH, C. H. *Contracts of Local Authorities*. London, 1925.

The rules of law relating to contracts made by local authorities with private concerns.

LITHEBY, SIR JOHN (Editor). *Owen's Educational Acts Manual*. Twenty-second edition, London, 1923.

The standard treatise on school law.

PORTER, C. *Sanitary Law*. London, 1920.

ROBINSON, GLEESON E. *Public Authorities and Legal Liability*. London, 1926.

A thoroughly up-to-date presentation of the subject.

SMITH, H. EMERSON. *Municipal and Local Government Law*. Second edition, London, 1923.

A useful manual, presenting the rules of law and the judicial decisions in clear review.

WEBB, CLARENCE A. *The Law and Practice of Rating and Assessment*. Second edition, London, 1923.

A handbook for overseers, members of assessment committees, and others interested in the technique of valuation.

WEBB, SIDNEY and BEATRICE. *Statutory Authorities for Special Purposes*. London, 1922.

The Reconstruction of English Borough Government:

COLE, G. D. H. *The Future of Local Government*. London, 1921.

The guild socialist's plan of reconstruction.

LASKI, HAROLD J. *A Grammar of Politics*. London, 1925.

Pp. 410-429 contain some highly suggestive comments on the English system of local government and some proposals for its reconstruction.

WEBB, SIDNEY and BEATRICE. *Constitution for the Socialist Commonwealth of Great Britain*. London, 1920.

Chap. iv (pp. 203-246) deals with the problem from the standpoint of a moderate Laborist.

Books on Special Phases of Municipal Administration:

(a) *Municipal Finance*.

ALLCOCK, J. M. *Municipal Accounts*. Third edition, London, 1921.

BATESON, W. *The Organization and Administration of the Finance Department*. London, 1924.

BURTON, J. H. *Loans and Borrowing Powers of Local Authorities*. London, 1924.

BURTON, J. H. *Local Authority Finance, Accounts, and Auditing*. London, 1923.

CANAAN, E. *History of Local Rates in England*. Second edition, London, 1912.

The best historical survey:

COLLINS, A. *The Audit and Organization of Local Authorities' Accounts*. Second edition, London, 1926.

CREW, A., CRESWELL, W. T., and HUNNINGS, A. *Rates and Rating*. Third edition, London, 1926.

One of the best books on the subject. Attention should be called to the changes made in the rating system by the Rating and Valuation Act of 1925.

GRAHAM, J. C. *Taxation and Local Government*. London, 1920.

GRICE, J. W. *National and Local Finance*. London, 1910.

JOHNSON, J. R. *Loans of Local Authorities*. Second edition, London, 1925.

ROBERTS, A. C. *Accounts of Local Authorities*. London, 1922.

The methods of public account-keeping.

ROBINSON, M. E. *Public Finance*. London, 1922.

RYDE, W. C. *The Law and Practice of Rating*. Fifth edition, 1925.

This edition, by E. M. Konstam (the author of an earlier well-known work on *Rates and Taxes*), is an exhaustive study of the subject in all its phases.

SHIRRAS, G. FINDLAY. *The Science of Public Finance*. London, 1924.

One of the latest, most comprehensive, and best books.

WEBB, SIDNEY and BEATRICE. *Grants in Aid*. New edition, London, 1920.

WHITEHEAD, STANLEY. *Municipal Audit Programmes*. London, 1922.

WHITEHEAD, STANLEY. *Municipal Accounting Systems*. London, 1924.

(b) *Town Planning*.

ADSHEAD, S. D. *Town Planning and Town Development*. London, 1923. A manual for the use of local authorities.

Boulnois, H. P. *Municipal Engineering*. London, 1921.

Lewis, Nelson P. *The Planning of the Modern City*. Second edition, New York, 1923.

Unwin, Raymond. *Town Planning in Practice*. Sixth edition, London, 1919.

Williams, Frank B. *The Law of City Planning and Zoning*. New York, 1922.

Contains much material on Great Britain.

(c) *'Municipal Ownership*.

There is no satisfactory recent study of this subject. The books listed below are for the most part either sharply partisan or out of touch with conditions of today.

Avebury, Lord. *On Municipal and National Trading*. London, 1907.
Strongly opposes municipal ownership.

Boverat, Raymond. *Le socialisme municipal en Angleterre*. Second edition, Paris, 1912.

Darwin, Leonard. *Municipal Ownership*. New York, 1907.

A carefully argued presentation of the case against municipal trading.

Davies, A. Emil. *The Case for Nationalization*. London, 1920.

Guyot, Yves. *Where and Why Public Ownership Has Failed*. New York, 1914.

Howe, Frederic C. *European Cities at Work*. New York, 1913.

Chaps. xix-xx deal with municipal ownership in Great Britain.

Knoop, Douglas. *Principles and Methods of Municipal Trading*. London, 1912.

An exhaustive and informing treatise.

Laidler, H. W. *Public Ownership Throughout the World*. New York, 1918.

Money, Sir Chiozza. *The Triumph of Nationalization*. London, 1920.

Porter, Robert P. *The Dangers of Municipal Ownership*. New York, 1907.

Shaw, George Bernard. *The Commonsense of Municipal Trading*. London, 1908.

An adroit statement of the case in favor.

Towler, W. G. *Socialism in Local Government*. London, 1909.

Warren, John H. *Municipal Trading*. London, 1923.

A booklet of about 90 pages, issued by the Labor Publishing Company, strongly defending the policy of municipal ownership and operation.

Whitten, R. H. *The Regulation of Public Service Companies in Great Britain*. New York, 1914.

(d) Police.

ALBAN, F. J., and LAMB, N. E. *Police Finance*. Second edition, London, 1925.

Includes material on police pensions.

BUDDING, C. *Die Polizei in Stadt und Land in Grossbritannien*. Berlin, 1908.

An intimate personal study by an outsider.

FOSDICK, RAYMOND B. *European Police Systems*. New York, 1915.

Good chapters on English police administration.

LAW, ALFRED. *Police Systems in Urban Districts*. London, 1923.

LEE, W. L. MELVILLE. *A Short History of Police in England*. Second edition, London, 1905.

SAVILL, STANLEY. *The Police Service of England and Wales*. New edition, London, 1923.

Explains the organization, financing, powers, and duties of the English police forces.

SMITH, SIR HENRY. *From Constable to Commissioner*. London, 1910.

By the former commissioner of the City of London police.

TROUP, SIR EDWARD. *The Home Office*. London, 1926.

Explains the system of central inspection.

Attention should also be called to the *Minutes of Evidence* taken by the parliamentary Committee on the Police Service, printed in a volume of over 500 pages by His Majesty's Stationery Office, in 1920. This public document contains a great deal of detailed information concerning all phases of the police service.

(e) Public Health.

BANNINGTON, B. G. *English Public Health Administration*. London, 1915.

The best book on the subject.

NEWMAN, SIR G. *Health and the State*. London, 1913.

An elementary manual.

NEWSHOLME, SIR ARTHUR. *The Ministry of Health*. London, 1925.

NEWSHOLME, SIR ARTHUR. *Public Health and Insurance*. London, 1920.

(f) Poor Relief.

APPLETON, W. A. *Unemployment: A Study of Causes, Palliatives, and Remedies*. London, 1923.

ASCHROTT, P. F. *The English Poor Law System, Past and Present*. Second edition, London, 1902.

The best general historical survey.

BOSANQUET, HELEN. *The Poor Law Report of 1909*. London, 1909.

CLARKE, JOHN J. *Social Legislation, Including the Poor Laws*. London, 1922.

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CLARKE, JOHN J. *Public Assistance: Organization and Costs*. Liverpool, 1925.

A monograph published by the Institute of Municipal Treasurers and Accountants (Incorporated). It contains a very clear, concise, and comprehensive survey of the history, organization, methods, and costs of poor law relief in England.

FOWLE, W. T. *The Poor Law*. London, 1906.

NICHOLS, SIR GEORGE, and MCKAY, THOMAS. *History of the English Poor Laws*. 3 vols., London, 1912.

The outstanding historical treatise.

WEBB, SIDNEY and BEATRICE. *English Poor Law Policy*. London, 1910.

WEBB, SIDNEY and BEATRICE. *The Break-up of the Poor Law*. London, 1911.

(g) *Housing*.

ALDRIDGE, HENRY R. *Guide to the Administration of the Housing Acts, 1923 and 1924*. London, 1924.

CLARKE, JOHN J. *The Housing Problem: Its History, Growth, Legislation, and Procedure*. London, 1920.

Full of good material and contains a useful bibliography.

HARTLEY, JAMES, and WINSTANLEY, ALBERT. *The Housing Problem: Its Modern Aspects and Practical Solution*. London, 1919.

National Housing and Town Planning Council. *The National Housing Manual*. Edited by H. R. Aldridge. London, 1924.

An encyclopedic compilation covering the whole subject. A supplement has been issued.

REISS, R. L. *The New Housing Handbook*. London, 1924.

TOWNROE, B. S. *A Handbook of Housing*. London, 1924.

VEILLER, LAWRENCE. *How England is Meeting the Housing Shortage*. New York, 1920.

A booklet of 608 pages, by a well-known American authority on housing. Published by the National Housing Association.

WOOD, SIR KINGSLEY. *The Law and Practice with Regard to Housing in England and Wales*. London, 1921.

(h) *Schools*.

BALFOUR, GRAHAM. *The Educational Systems of Great Britain and Ireland*. Oxford, 1903.

ROMAN, FREDERICK W. *The Schools of Europe*. London, 1923.

A discussion of the school system of Great Britain will be found in the early chapters of this book (pp. 1-87).

TAWNEY, R. H. *Education: The Socialist Policy*. London, 1924.

THOMAS, A. A. *The Education Act, 1918*. London, 1919.

(i) *Miscellaneous*.

ANDERSON, MATTHEW (Editor). *How Manchester Is Managed*. Manchester, 1925.

FABIAN SOCIETY. *Publications.*

The list of books and tracts dealing with the application of socialist principles to the problems of local government may be had from the Society's headquarters, 25 Tothill Street, Westminster, London, S. W. 1.

HARRIS, S. M. *Problems of Local Government.* London, 1911.

MCCALL, J. H. *Municipal Bookkeeping.* Second edition, London, 1922.

WRIGHT, ARTHUR S. *The Organization and Administration of the Town Clerk's Department.* London, 1923.

FRENCH CITIES

Bibliographies. There is no recent bibliography of materials relating to French city government. The nearest approach to anything of the sort is the *Catalogue des livres composant la bibliothèque du conseil municipal de Paris* (Paris, 1904). This catalogue has been supplemented from time to time by lists of new acquisitions printed in the *Bulletin officiel de la Ville de Paris*. Mention may also be made of a useful bibliographical publication: G. Godde's *Bibliographie générale et complète des livres de droit et de jurisprudence* (Paris, 1925). This catalogue contains a great many useful references to material in the field of French local government, but despite its title it is far from being either general or complete.

Laws and Decrees. The laws relating to municipal government in France may be found in the *Bulletin des lois de la République Française* (issued annually). The discussions and the reports of the parliamentary commissions which precede the enactment of the laws may be found in the *Journal officiel*. This journal also contains, what is fully as valuable, the reports and discussions relating to proposed laws which have failed of enactment. (See, for example, the discussions in the Chamber of Deputies on August 23, 1924, and on February 6, 1925.) The ministerial circulars relating to municipal government are printed in the monthly *Bulletin officiel annoté de tous les ministères*. This bulletin is issued in two parts, one containing the official announcements, the other containing copies of all the decrees, arrêtés, and circulars issued by the various ministries in so far as these relate to municipal affairs. For those who do not have access to a file of this *Bulletin officiel* it may be mentioned that most of the more important documents may be found in Durand de Nancy's *Nouveau guide pratique des maires des adjoints, et des conseillers municipaux* (new edition by Ruben de Couder, Paris, 1920).

The Municipal Code of 1884. An up-to-date copy, in inexpensive form, is published by Marcel Rivière (Paris, 1925) under the title *La loi municipale du 5 avril 1884. Edition mise à jour*. The best commentary on the code is Léon Morgand's *La loi municipale* (10th edi-

tion, 2 vols., edited by Henri Morgand, Paris, 1923). This work contains not only the text of the code but voluminous notes and comments. A much smaller publication by Victor Arnoux and Jules Rome, entitled *Nouveau code des municipalités* (Grenoble, 1922), contains a revised edition of the text together with annotations upon the laws enacted since 1884 in relation to municipal affairs, especially those relating to the social welfare work of the municipalities.

Municipal Statistics. Figures relating to the population, growth, and demographic conditions of French cities may be had from the *Annuaire statistique*, issued yearly since 1878. Mention may also be made of the *Bulletin de la statistique générale de la France* (issued quarterly), which contains some municipal statistics and which also includes from time to time special studies of a statistical character touching the cities, e.g. the number of foreigners in Paris or the productivity of the municipal tax known as the octroi. The French census bureau (*Statistique générale de la France*) also issues various other publications under various titles. As for financial statistics relating to French cities, these may be found in the annual publication known as *La situation financière des communes*. Mention should also be made of the *Revue des services financiers*, a semi-monthly published in Paris for the special benefit of municipal treasurers, auditors, and other financial officers. For Paris itself there is an *Annuaire statistique de la Ville de Paris*, and some of the other large cities have similar publications.

Legal Encyclopedias, Dictionaries, and Manuals. On any question of administrative law or administrative practice, the most useful sources are the various Dalloz publications, especially the monumental *Répertoire pratique* (12 vols., Paris, 1911-1926), the *Code administratif* (Paris, 1925), the *Manuel électoral* (Paris, 1925), and the *Code des lois publiques et administratives annotées et expliquées* (5 vols., Paris, 1887-1905), commonly cited as "Dalloz et Vergé". Supplementing this last-mentioned work is a volume on the *Code administratif*, published under the direction of Gaston Griolet and Charles Vergé (Paris, 1925). Léon Bequet's great *Répertoire du droit administratif* (28 vols., Paris, 1882-1911) is now somewhat behind the times on many topics. An extract from it, still possessing some value, is Léon Bequet and M. Roussel's *Traité de la commune* (Paris, 1888).

The best known dictionary in this field is Maurice Block's *Dictionnaire de l'administration française* (5th edition, 2 vols., Paris, 1905). A supplement was issued in 1907. More useful to the average student is Dalloz's *Traité pratique de droit municipal à l'usage des maires* (edited by Gaston Griolet and Charles Vergé, 2 vols., Paris, 1912-1913).

The Librairie Dalloz has also issued a *Manuel des maires et des conseillers municipaux* (Paris, 1925). This is a useful handbook of about 300 pages containing the legal information most likely to be needed by municipal officers in the discharge of their functions. One should also include in this list T. de Croissy's *Dictionnaire municipal* (2nd edition, 2 vols., Paris, 1913). Other manuals worth mention are G. Dubarry's

Formulaire des maires et des conseils municipaux (8th edition, Paris, 1925), Charles and Louis de Fouchier's *Manuel pratique des communes* (Paris, 1924), and P. Sauvageot's *Manuel théorique et pratique, et formulaires des actes administratifs, à l'usage des préfectures, sous-préfectures, maires, et établissements publics* (Paris, 1919).

Periodicals. France is well provided with periodicals relating to municipal affairs. Among them are the *Journal des maires et des conseillers municipaux* (monthly) which is designed to be of service to officials in active service, the *Bulletin des communes* (monthly), and the *Journal des communes* (monthly),—all published in Paris. *La vie municipale* (also a monthly) is published at Alan (Haute-Garonne). *Le mouvement communal français* (a semi-monthly) is the organ of the *Union des villes et communes françaises*. This periodical continues *La vie urbaine*, which began publication in 1919 but is no longer issued. *Le mouvement communal français* contains not only interesting discussions but good bibliographical lists prepared by the secretariat of the *Union internationale des villes* which has its headquarters in Brussels. This International Union of Cities does not have an official periodical but in connection with its annual congress it publishes a large number of papers, reports, and discussions. A small journal established in 1923, called *La vie communale et départementale: revue mensuelle de l'activité locale*, prints articles on all phases of French municipal administration; legal, engineering, health, etc. More general in scope are the *Revue générale d'administration* (published by the Ministry of the Interior) and the *Revue politique et parlementaire*, both of which frequently contain good articles on matters of municipal government. In addition there are various journals devoted to special phases of municipal administration—such as the *Revue pratique d'hygiène municipale* (bi-monthly) and the *Journal des percepteurs*.

General Treatises. Standard treatises on constitutional and administrative law, all of which devote more or less attention to the organization and control of local government, are H. Berthélemy, *Traité élémentaire de droit administratif* (10th edition, Paris, 1923); Henri Chardon, *L'administration de la France* (2 vols., Paris, 1907-1912), especially vol. ii which deals with the administration of the public services; Léon Duguit, *Traité de droit constitutionnel* (5 vols., Paris, 1918-1925); Adhémar Esmein's *Éléments de droit constitutionnel* (7th edition, 2 vols., Paris, 1921); Maurice Hauriou's *Précis de droit administratif* (10th edition, Paris, 1921, with supplement 1924), and the same author's *Précis de droit constitutionnel* (Paris, 1923); Gaston Jèze's *Cours de droit public: Le fonctionnement des services publics* (Paris, 1923); M. Journé's *Précis de droit administratif* (Paris, 1922) and Henri Nézard's *Éléments de droit public* (3d edition, Paris, 1919).

The Government of Paris. For the study of Paris government, the chief official sources are the *Rapports et documents du conseil municipal de Paris* (printed annually) and the *Bulletin municipal officiel de la Ville de Paris* (issued weekly). The latter gives the proceedings of the

Paris municipal council in full. But attention should be called to the excellent treatise by Raiga and Félix mentioned *below*, p. 418.

Miscellaneous Books (arranged alphabetically).

ANDENA, ROBERT, *Les régies municipales en France*. Montpellier, 1924.

A survey of present tendencies respecting the policy of municipal ownership. Covers briefly the municipalization of water, gas, electricity, housing, etc. The author concludes that the relative efficiency of public and private enterprise cannot be determined. He bases the case for municipalization on social benefit, and believes that the general laws relating to municipal ownership ought to be improved.

BABEAU, ALBERT, *La ville sous l'ancien régime*. Paris, 1880.

BÉAL, G. *Des attributions des receveurs des finances*. Poitiers, 1924.

BEAUDOIN, M. *De la responsabilité des communes en cas de troubles*. Paris, 1913.

BÉCHARD, F. *Droit municipal dans l'antiquité, au moyen âge, et dans les temps modernes*. 5 vols., Paris, 1861-1866.

BERTHÉLEMY, H. *Les institutions municipales de la France*. Leipsic, 1908. Reprinted from the *Schriften des Vereins für Socialpolitik*.

Deals principally, and in a general way, with the evolution of French municipal institutions during the course of the nineteenth century. Written by an eminent French authority it is an excellent survey.

BIZARDEL, R. *Une reconstruction nécessaire. Essai d'une organisation nouvelle des départements et des communes*. Paris, 1922.

BONNEAU, G. *Guide électoral*. Second edition. Paris, 1919.

BONNEAU, G. *Manuel pratique des maires et des conseillers municipaux*. Paris, 1912.

BOURGUEIL, E. *Le vade-mecum de l'instituteur secrétaire de mairie*. New edition. Paris, 1920.

A valuable and widely used handbook on routine phases of French municipal administration.

BRASSARD, P. A. *La réforme des finances locales*. Paris, 1924.

CHARDON, H. *L'organisation de la police*. Paris, 1917.

An authoritative work by a prominent scholar.

COUTY, PIERRE. *Les finances communales pendant la guerre en France*. Paris, 1925.

The author is *rédacteur principal* at the Ministry of the Interior. He discusses pre-war and post-war finance in the communes, especially in those which were occupied by the Germans. Puts forth some suggestions for the reform of local finances.

DARESTE, P. *Les voies de recours contre les actes de la puissance publique*. Paris, 1914.

DARROZE, L. *De la responsabilité des communes . . . en cas de troubles publics*. Toulouse, 1924.

A doctoral thesis.

DESBONS, M. *La responsabilité civile des communes*. Paris, 1915.

DISLÈRE, P. *Les devoirs des maires en cas de mobilisation*. Paris, 1912.

A good account of the French mayor's military responsibilities.

DRILLON, P. *La revision des listes électorales*. Paris, 1914.

DUBARRY, G. *Le secrétaire de mairie*. Nineteenth edition, Paris, 1924.

A full and accurate account of the work done by the French municipal secretariat.

FAVAREILLE, R. *La réforme administrative par l'autonomie et la responsabilité des fonctions, ou "self-administration"*. Paris, 1919.

FÉLIX, MAURICE. *Le fonctionnement des conseils municipaux pendant la guerre*. Paris, 1917.

FÉLIX, MAURICE. *Les municipalités pendant la guerre*. Paris, 1917.

Two excellent books on the same general subject.

FINANCE, J. *Formulaire général des actes de l'état civil*. Paris, 1922.

FOSSE, L. *Le vote familial*. Montpellier, 1924.

Advocates placing the suffrage on a "family" basis.

GIRY, A. *Documents sur les relations de la royauté avec les villes en France de 1180 à 1314*. Paris, 1885.

GUYON, E. F. *L'organisation de la police en France*. Paris, 1923.

GUYOT, YVES. *La question pour l'état et les municipalités*. Paris, 1913.

HULIN, MARCEL. *Le crédit de la ville de Paris*. Paris, 1923.

LACROIX, S. *Rapport sur l'organisation municipale de Paris*. Paris, 1913.

LA RUELLE, J. C. DE. *Exploitation en régie par les communes des distributions d'énergie électrique*. Saint-Armand, 1923.

LAREAU, E. *Guide pratique d'administration à l'usage des chefs de bureau de préfecture, maires, etc.* Paris, 1914.

LAURIOT, ANDRÉ. *La police à Paris et en province*. Paris, 1924.

A study of the organization of the gendarmerie and municipal police. The author favors the centralization of all police activities in a single, nation-wide corps under the minister of the interior.

LEVAINVILLE, JACQUES. "Notes sur l'évolution de la fonction urbaine", in *La vie urbaine*, V, pp. 223-278 (1923).

LUCAS, M. *Manuel de droit public et administratif et de législation financière*. Paris, 1921.

LUCHAIRE, A. *Les communes françaises à l'époque des capétiens directs*. New edition, Paris, 1911.

MARIS, MAURICE. *La réforme municipale*. Paris, 1922.

Argues that the existing system of city government in France is not a success. It does not afford sufficient scope for technical knowledge and skill. Besides it lacks continuity. The author favors the German municipal system.

Ministère de l'Intérieur. Direction de la sûreté générale. *La police en France*. Versailles, 1913.

A good general description of police organization and functions.

MONFREU, J. *Manuel pratique de l'état civil*. 4th edition, Paris, 1914.

MONSARRAT, G. *Contrats et concessions des communes et des établissements communaux de bienfaisance*. Paris, 1920.

MONSARRAT, G. *La réforme administrative au point de vue économique*. Paris, 1920.

MOREAUX, M. *Le receveur municipal*. Paris, 1911.

The duties of municipal treasurers.

MORET, H. *Comptes et budgets des communes, syndicats, et établissements de bienfaisance*. Paris, 1903.

MOUNEYRAT, E. *La préfecture de police*. Paris, 1906.

OLIVE, E. *Memento des aspirants aux fonctions de commissaire de police et vade-mecum des commissaires*, etc. 2nd edition, Paris, 1923.

PAUFFIN, A. *Essai sur l'organisation et la juridiction municipales au moyen âge*. Paris, 1886.

PAYEN, F. *Des concessions de chemins de fer d'intérêt local et de tramways*. Paris, 1907.

PERRIER, E. G. *La police municipale*. Paris, 1919.

PERROCHON, M. *Les fonctions municipales*. Paris, 1921.

PIRENNE, HENRI. *Mediæval Cities*. Princeton, 1925.

POTONNIÉE, PIERRE. *La constitution du conseil municipal de Paris*. Rennes, 1924.

An exposition of the various laws governing the organization and activities of the Paris city council. Other topics dealt with are: composition of the council, election procedure, the cost of elections, dissolutions, etc.

PUECH, LOUIS. *Essai sur la candidature officielle en France depuis 1851*. Montpellier, 1922.

RAYNOUARD, A. *Histoire du droit municipal en France*. 2 vols., Paris, 1829.

RABANY, CHARLES. *Guide général des élections*. 3d edition, Paris, 1925.

A comprehensive handbook giving accurate information concerning all French elections from senatorial to conciliar.

RAIGA, EUGÈNE, and FÉLIX, MAURICE. *Le régime administratif et financier du département de la Seine et de la ville de Paris*. Paris, 1922.

Quite the best detailed description of the framework and functions of government in Paris.

SELLIER, HENRI. *Les banlieues urbaines et la réorganisation administrative du département de la Seine*. Paris, 1920.

Deals with the problems of the Paris suburbs.

SOL, CHARLES. *Le budget municipal*. Corbeil, S. et O., 1925.

The author is secretary-general of the mairie of Châlons-sur-Marne. He knows his subject thoroughly and covers all phases of it—history of the budget system, central control, divisions of the budget, forms, accounts, and legal requirements. An up-to-date and clear discussion.

TAILLANDIER, A. DE. *Manuel formulaire de la revision de la liste électorale à l'usage des préfets, sous-préfets, maires, etc.* Fourth edition, Paris, 1923.

TAILLANDIER, A. DE. *Manuel formulaire des officiers de l'état civil*. Sixth edition, Paris, 1920.

Both are well-known and useful handbooks.

VACQUIER, M. P. *La question de la suppression des sous-préfectures*. Paris, 1922.

GERMAN CITIES

Bibliography. No comprehensive bibliography of books and other materials relating to German municipal government has been published in recent years. The best collections are those contained in the Library of the Administrative Board (*Magistratsbibliothek*) in the Rathaus in Berlin and in the newly founded Municipal Reference Institute (*Kommunalwissenschaftliche Bücherei und Uebungsräume*) at the University of Berlin, but there is no printed catalogue of either collection.

History. Many books have been written on the history of municipal government in the German states. The best short survey is Hugo Preuss, *Die Entwicklung des deutschen Städtewesens* (Leipsic, 1906). More exhaustive studies are G. von Below, *Der Ursprung der deutschen Stadtverfassung* (Düsseldorf, 1892) and *Die Entstehung der deutschen Stadtgemeinde* (Düsseldorf, 1899); Ernst Consentius, *Alt-Berlin, Anno 1740* (Berlin, 1911); P. Dittman, *Die Bevölkerungsbewegung der deutschen Grossstädte seit der Gründung des deutschen Reiches* (Berlin, 1912); Edmund Edel, *Neu Berlin in Ostwald's Grossstadt* (Berlin, 1905); E. T. Gaupp, *Deutsche Stadtrechte des Mittelalters* (2 vols., Breslau, 1851); H. G. Gengler, *Deutsche Stadtrechte des Mittelalters* (Erlangen, 1866), and his *Codes juris municipalis Germaniæ mediæ ævi* (Erlangen, 1863); Karl Hegel, *Die Entstehung des deutschen Städtewesens* (Leipsic, 1898); A. Heusler, *Der Ursprung der deutschen Stadtverfassung* (Weimar, 1872); K. D. Hullmann, *Das Städtewesen des Mittelalters* (4 vols., Bonn, 1826-1829); F. Keutgen, *Untersuchungen über den Ursprung der deutschen Stadtverfassung* (Leipsic, 1895); and *Urkunden zur Städtischen Verfassungsgeschichte* (Berlin, 1901).

Official and Legal Publications. The municipal codes of the various German states have not been brought together in any one compilation,

but are separately printed in book or pamphlet form. Each may also be found in the *Gesetz-Sammlung* of the state concerned. For Prussia the best source is Fritz Stier-Somlo's *Sammlung preussischer Gesetze*, etc. (Munich, 1925). A tabular summary of all the existing municipal codes and of the proposed new Prussian code (*Ein Querschnitt durch die deutsche Stadtverfassung*), by Dr. Meyer-Lülmann, may be found in the *Zeitschrift für Kommunalwirtschaft*, vol. xv, No. 2 (January 25, 1925) and will prove most useful as a guide to the laws.

Municipal Statistics. Before the war the *Statistisches Jahrbuch deutscher Städte* was invaluable in this field, but publication was discontinued in 1916. A new volume is now in preparation and will probably appear during 1926. Mention should also be made of the *Kommunales Jahrbuch* (edited by Drs. Albert Südekum and H. Lindemann), which began publication in 1908 but was discontinued during the years 1915-1925. This most useful handbook has now reappeared (1926) and will continue to be issued annually, it is hoped. For Berlin there is a *Statistisches Jahrbuch der Stadt Berlin*, and the other large cities also publish annuaries or manuals containing much statistical and descriptive information. In addition, most of them issue an annual *Verwaltungsbericht* or report on city administration for the year.

Encyclopedias. The *Handwörterbuch der Kommunalwissenschaften* (edited by Dr. Albert Südekum and others) is now complete in five volumes (Jena, 1914-1926). It is the best of all local government encyclopedias, covering all phases of the subject in careful detail. The fifth volume gives a résumé of municipal government since 1914.

Commentaries. The most comprehensive is Dr. Fritz Stier-Somlo's *Handbuch des Kommunalen- Verfassungs- und Verwaltungsrechts* (3 vols., Oldenburg, 1923). It contains useful material on every branch of the subject. Conrad Bornhak's *Grundriss des Verwaltungsrechts* (7th edition, Berlin, 1921) is a well-known and authoritative work, but more general in scope. Otto Mayer's *Verwaltungsrecht* (3d edition, 2 vols., Berlin, 1924) also deserves mention. On the Code of 1853 and its amendments there are two good commentaries; namely, those of Ledermann-Brühl and Oertel (see alphabetical list *below*). Mention may also be made of Noack's *Taschenbuch für Kommunalpolitiker* (issued annually).

Periodicals. There are no fewer than twenty-three regular periodicals which give special attention to the subject of German local government. (The full list may be found in Mitzlaff and Stein, see *below*). Among these various journals special mention may be made of the *Deutsche Gemeindezeitung* (weekly), the *Kommunale Rundschau* (semi-monthly), the *Zeitschrift für Kommunalwirtschaft* (semi-monthly), *Der Bürgermeister* (semi-monthly), the *Mitteilungen des deutschen Städtetags* (monthly), and the *Deutsche Kommunal-Kalender* (annually since 1920). This last-named publication contains lists of the most recent publications relating to German city government. Good discussions in this field are also published from time to time in the *Preussisches*

Verwaltungsblatt and in the *Zeitschrift f.d. gesamte Staatswissenschaft*. Attention should also be called to the series of *Schriften des Vereins für Kommunalwirtschaft und Kommunalpolitik*, in which several interesting studies have appeared, and also to another series entitled *Monographien deutscher Städte und Landgemeinden*.

Miscellaneous Books (arranged alphabetically).

DAWSON, W. H. *Municipal Life and Government in Germany*. London, 1914.

GUNDLACH, W. *Die Polizei der Gegenwart*. Lübeck, 1926.

HELFRTZ, H. *Grundriss des preussischen Kommunalrechts*. Berlin, 1922.

HIRSCH, P. *Kommunalpolitische Probleme*. Berlin, 1920.

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